

The Oregonian

Portland to Sue Opioid Companies for Costs of Local Havoc

By Brad Schmidt
February 21, 2018

The city of Portland will join a national movement by suing drug companies behind America's opioid crisis.

On Wednesday, the Portland City Council voted 4-0 to file litigation hoping to recoup millions of dollars spent locally each year dealing with the fallout of opioid addiction.

"This is a much-needed step to help stem the tide of opioid addiction in our community," Portland Mayor Ted Wheeler said.

Portland will join at least 370 other cities and counties across America suing drug manufacturers or distributors, said Naomi Sheffield, a deputy city attorney. Locally, Multnomah County filed suit against several companies in August while the Clark County Council, in Washington, approved a lawsuit Tuesday.

Portland plans to argue that drug companies created a public nuisance and acted negligently. Sheffield said the city's damages from opioid addiction are "a few million dollars annually."

In 2016, city firefighters responded to 3,475 overdose calls. Of those, first responders administered Naloxone, which reverses opioid overdoses, about 400 times, Sheffield said. And about half of all drug calls to police are related to opioids.

"Entities we trust with our health are preying on our pain and leaving a wake of ruin, grief and untold costs to families and communities," Commissioner Chloe Eudaly said.

City officials have privately identified a list of companies that could be targeted in a lawsuit. But the city did not release those names Wednesday and Sheffield declined to identify the companies when asked by The Oregonian/OregonLive.

Portland will hire an outside law firm, Baron & Budd, to sue opioid companies. Baron & Budd already represents Portland in a separate suit against chemical-maker Monsanto, and the law firm represents many jurisdictions suing over opioid havoc.

Portland's lawsuit will be filed locally in federal court. But officials expect it will be transferred to the Northern District of Ohio, where multi-district litigation involving drug companies is being heard.

"We do have a voice, and collectively our voices have power," Commissioner Nick Fish said.

Wednesday's meeting also highlighted the personal toll of opioid use.

Former Portland Commissioner Steve Novick testified about the 2007 death of his brother, Mischa, from an OxyContin overdose. Novick said drug companies -- specifically Purdue Pharma and the wealthy Sackler family behind it -- need to be held accountable.

Absence of Community Oversight of Portland Police Reforms Extends Beyond One Year

By Maxine Bernstein

February 21, 2018

Portland's mayor wants to hire a consultant to help organize and train a new community police oversight committee, a group required by a city agreement with the U.S. Justice Department but which has yet to be formed a year after the city disbanded its predecessor.

Michael Cox, spokesman for Mayor Ted Wheeler, said the city had hoped to hire the consultant in February then appoint members to the new Portland Committee on Community-Engaged Policing, with it up and running in the summer.

But the city's initial request for bid proposals, due Jan. 8, apparently didn't draw enough "quality responses," so the solicitation was canceled Jan. 30, Cox said. A new request for proposals has been issued, partly to seek a larger pool of applicants including small businesses, according to the mayor.

A selection committee of city employees, along with mental health and racial equity advocates, has been formed, but the mayor's office declined to identify the members by name.

A U.S. Justice Department investigation found in 2012 that Portland police used excessive force against people with mental illness. The negotiated settlement with the city, approved by a federal judge in 2014, calls for changes to Portland policies, training and oversight. A central part of the settlement was to have independent oversight by community members.

Jason Renaud, a volunteer with the Mental Health Association of Portland, said clearly the old Community Oversight Advisory Board, known as COAB, needed "reworking." The old board disbanded in January 2017 due to internal conflicts and the lack of feedback from former police chiefs, city officials and federal officials to more than 50 policy recommendations its members crafted on police use of force, improving police encounters with people in crisis and ways to combat bias-based policing.

But to have no public discussions on the bureau's efforts to improve its interactions with people with mental illness for more than a year, a significant part of the four-year old city settlement agreement with the U.S. Department of Justice, means the "opportunity to build trust has been missed," Renaud said.

According to the city's request for bids, the new committee will independently assess the settlement agreement, make recommendations on how police can improve its community outreach and bureau policies, develop relationships with diverse communities in Portland, host at least quarterly town hall meetings, and share public grievances with the Police Bureau.

The new committee also is expected to hold two meetings a month, with at least one of those meetings open to the public, though it's up to the committee to decide which one the public can attend.

The hired consultant would help communicate to the public the development of the new committee, establish an "equitable process" for recruitment and selection of members, plan a retreat for the committee, ensure "group cohesion" by setting ground rules for the committee and a vision for their work, and facilitate its public meetings. The person will have experience working with the mental health community and skills to "navigate challenging and controversial subject matter," according to the mayor.

No firm budget was provided. Those seeking the position are directed to estimate the cost of such services and submit a proposal to the city by March 12. The city anticipates selecting a person or firm by early April, with work to start April 16.

Because of the city's past legal challenge, an annual hearing on the status of reforms before a federal judge was canceled last year and delayed for more than a year.

That annual status hearing on the reforms is now set for April 19 before U.S. District Judge Michael H. Simon.

The judge also will hold a fairness hearing on whether the new committee and other amendments to the settlement agreement adopted by the City Council are "fair, adequate and reasonable."

The Albina Ministerial Alliance's Coalition for Justice and Police Reform pushed for the fairness hearing, concerned that the new oversight group envisioned by the mayor's office gives "less autonomy and authority to the community."

While the initial community group was primarily empowered to provide independent oversight of the police reforms mandated by the federal agreement, the new group's mission is more focused on improving the Police Bureau's engagement with the community, the coalition noted.

"The Court should accordingly hear from the community – who will be most impacted – on these matters," coalition lawyers J. Ashlee Albies and Kristen Chambers wrote in a court filing.

"The city has been out of compliance with the community oversight components of the settlement agreement for well over a year," they wrote. "As a result, the community has been left in the dark."

City-hired consultants last year also reported that Portland police still lack the ability to track whether officers are using less force against people with mental health issues because of the lack of reliable data collected.

The Police Bureau has a community group called the Behavioral Health Unit Advisory panel that addresses police response to people in mental health crisis, but it meets behind closed doors. Neither the public nor the media has been allowed to attend the sessions.

According to the bureau's budget proposal for the next fiscal year, there were 1,012 referrals for service made to officers in the bureau's Behavioral Health Unit in the 2016-2017 fiscal year, but the unit was able to assign 44 percent of those referrals for case follow-up.

Police officers make referrals to the unit. The goal is to connect people in mental health crisis who officers encounter on the street to appropriate treatment and community resources to reduce their contacts with police and the criminal justice system.

Follow-up is based on unit capability, a person's risk to their self and others, number of contacts with officers and whether their conduct has escalated, Lt. Christian Wheelwright said. If someone is already connected to services, then a case is not assigned for follow-up by the union, but all cases are sent to Multnomah County mental health, Wheelwright said.

There are now three behavioral health teams, each made up of one Portland officer and one clinician. The bureau is asking for funding in the next budget to add two more teams. With the two new teams, the bureau's Behavioral Health Unit strives to respond to 50 percent of its referrals, according to the budget request.

Jan Friedman, an attorney with Disability Rights Oregon who sits on the Behavioral Health Unit advisory panel, said there's a lot of committed people on the panel, and she's seen improvements in how people with disabilities are discussed. Required crisis intervention training for all

officers, and volunteer officers who receive additional training under the bureau's Enhanced Crisis Intervention officer program are all positive steps, she said.

Friedman, though, believes the advisory panel should hold at least some portions of its meetings in public. "I feel like there does need to be more inclusion," she said.

A clear community component was central to the federal settlement agreement, and is what's needed to change the public's distrust of police, she said.

Portland, Vacation Rental Site HomeAway Settle Dispute over Lodging Taxes

*By Elliot Njus
February 21, 2018*

Portland has settled a longstanding lawsuit with the vacation rental website HomeAway and its affiliates over unpaid lodging taxes.

The city has traded lawsuits with the company since 2015. It argued the company, which allows homeowners to rent out their homes as vacation rentals online, had failed to either collect lodging taxes usually paid by hotels or give the city enough information about its customers to track them down.

Portland legalized short-term rentals in private homes in 2014, requiring homeowners to undergo an inspection and secure a permit. A permanent resident must also live in the home at least nine months of the year.

The city also required sites that facilitate the rentals, like HomeAway, to start collecting the transient lodging taxes typically paid by traditional hotels. The city expected to collect \$1.2 million a year, which the City Council agreed to put toward affordable housing.

But the rules as originally written left a loophole, which the City Council amended before the city renewed its lawsuit. HomeAway countersued, seeking to prevent the city from enforcing the lodging tax regulations against HomeAway. It said its customers were responsible for paying the taxes.

Under the terms of the settlement, HomeAway -- and affiliates VRBO and VacationRental.com - - will allow customers to register for a short-term rental permit online. The customer will be allowed to operate the rental while the permit is pending, but HomeAway agreed to remove listings that don't complete the process, which includes an in-person inspection.

Thomas Lannom, the director of Portland's Revenue Division, said that model would be rolled out to other vacation rental platforms like Airbnb, which had pushed the city to simplify the permitting process.

HomeAway will also begin collecting city and county lodging taxes on behalf of its Portland customers, and it will also pay the city \$275,000.

Larry O'Dea Fails the Moral Fitness Test: Editorial

*By The Oregonian Editorial Board
February 21, 2018*

The city's human resources director didn't mince words last year in assessing the behavior of former Portland Police Chief Larry O'Dea after he accidentally shot a friend. O'Dea showed a "general lack of forthrightness" about the non-fatal incident, "failed to respond fully and truthfully" to city employees investigating his case and brought "discredit to the city," then-human-resources director Anna Kanwit concluded.

Yet those findings and the underlying investigation weren't compelling enough for a committee weighing whether to suspend or revoke O'Dea's police certification, as The Oregonian/OregonLive's Maxine Bernstein reported. Instead, most of those on the police policy committee for the Oregon Department of Public Safety Standards and Training concluded that O'Dea still meets the state's moral fitness standards for certification and recommended against sanctions. As Loren Cannon, the Special Agent-in-Charge for the FBI's Oregon operations told The Oregonian/OregonLive Editorial Board, O'Dea may have showed poor leadership, but he did not appear to do anything "overtly dishonest."

What a discouraging baseline for deciding if someone is fit to be an Oregon police officer.

Media reports and investigations have laid out how O'Dea withheld information, misled subordinates and sought to keep the public from learning about his accidental shooting of Robert Dempsey during a camping trip in April 2016 in Harney County.

Consider that initially, O'Dea told the Harney County sheriff's deputy who came to investigate the shooting that his friend may have shot himself.

O'Dea and others in his party soon realized that O'Dea must have been the shooter, according to accounts. But O'Dea didn't correct his account with the Harney County sheriff's office. Instead, the sheriff's office learned three weeks later from Dempsey that O'Dea had admitted to shooting him and apologized, according to Harney County Sheriff Dave Ward and investigations by the Oregon Department of Justice and the city's Independent Police Review division.

O'Dea waited four days before complying with bureau policy to notify his supervisor - Mayor Charlie Hales - about the shooting. He also misled his assistant chiefs about whether an internal inquiry was underway, the Independent Police Review investigation found. And the internal affairs captain said he thought O'Dea was simply sharing a personal story with him rather than reporting an incident that required an administrative inquiry to be launched.

Certainly, Hales and the others failed to uphold their responsibilities. Hales should have put O'Dea on administrative leave immediately. The assistant chiefs and internal affairs captain should have reported the shooting to the city's Independent Police Review so they could conduct an administrative investigation.

But the self-serving manner in which O'Dea shared the information and his lack of interest in ensuring an inquiry was underway point to a man desperate to avoid accountability for his embarrassing mistake. Would anything have been done if media outlets had not discovered and reported on the incident a month after the shooting?

That's an important point to emphasize. O'Dea had the knowledge, responsibility and authority to ensure that he was held to the same standards as other police officers. He declined to show any of it.

Unfortunately, it seems that some of those on the committee would rather ignore his inaction or explain away O'Dea's delays and discrepancies. It's as if they are moved more by sympathy for O'Dea than pride in what a certification stands for. As Washington County Sheriff Pat Garrett noted, O'Dea's forced retirement amid the internal investigation was "sufficient" punishment. He misunderstands that suspending or revoking a certification isn't about punishing someone - it's about upholding professional standards and protecting the public.

Some policy committee members, including Portland Police Assistant Chief Chris Davis, Oregon State Police Superintendent Travis Hampton and public member representative Patricia Patrick-Joling, were among those willing to be sharply critical of O'Dea's actions. Thankfully, they also serve on the Public Safety, Standards and Training board, which will take up the policy committee's recommendation in April.

While it takes a two-thirds majority to overrule the recommendation, their fellow board members should think about the public's expectations in the integrity and professionalism of anyone deemed eligible by the state to carry a badge and a gun. They should consider the agency's poor record of revoking certifications for police officers fired for cause, as an Oregonian/OregonLive investigation last year showed. And they should remember that a true test of accountability is not how many low-ranking employees face consequences but whether those who wield the most power ever answer for their failures.

Larry O'Dea's accidental shooting of his friend was a mistake. But that doesn't excuse every intentional and self-serving decision he made afterward. The board should overrule its policy committee and strip him of his certification to serve as a police officer.

The Portland Tribune

Portland Plans to Sue Opioid Makers to Recover City Costs

*By Pamplin Media Group
February 21, 2018*

Hundreds of cities, counties and states have sued the drug makers because of a crisis that has hit communities hard.

Portland's City Council plans to sue opioid manufacturers and distributors to recover the city's costs of responding to opioid-related calls and cases.

Wednesday morning, city commissioners unanimously agreed to sue companies involved in the opioid production and distribution. The city attorney's office will file litigation in Oregon's federal court and probably will be transferred to other lawsuits being heard in Ohio.

Hundreds of cities have sued opioid manufacturers and distributors. In August, Multnomah County officials sued Purdue Pharma, maker of OxyContin; Pharmaceutical Industries and Cephalon, which make and distribute Actiq and generic opioids; and Endo Health Solutions Inc., which makes and distributes Percodan and Percocet. Others named in the county lawsuit include Janssen Pharmaceuticals. Inc., Actavis PLC, Mallinckrodt PLC and INSYS Therapeutics.

Multnomah County officials say they have spent an estimated \$100 million so far battling opioid-related problems.

Oregon Attorney General Ellen Rosenblum is also taking action on behalf of the state.

Opioids are pain relieving medications with a chemical composition very close to heroin. In 2016, health care providers wrote 289 million prescriptions for opioids.

'Must be held accountable'

Although the city of Portland has not put a dollar amount on its response to the opioid crisis, funds have been spent for city homelessness services, Police Bureau programs to respond to opioid-related calls and cases, and substantial Portland Fire & Rescue resources responding to medical calls for overdoses.

"Three Oregonians die every week due to prescription opioids, and cities like Portland are on the front lines," said Mayor Ted Wheeler. "Drug manufacturers must be held accountable for their products, and I'm proud of our community for taking a stand against this epidemic."

"This lawsuit is about recovering damages for costs we've incurred fighting this crisis, but it's also about making a statement," said Commissioner Nick Fish. "Today we join communities across the country calling for accountability from big pharma."

"Companies that have preyed on people's suffering in pursuit of their own profit must be held accountable for the wake of devastation they have left across our communities and country," said Commissioner Chloe Eudaly.

Portland's action comes one day after the Clark County, Wash., decided Tuesday, Feb. 20, to retain Seattle law firm Keller Rohrback to sue opioid manufacturers and distributors on behalf of the county.

In Clark County, at least 91 people died of opioid-related causes since 2014.

City Reaches Deal with Short-Term Rental Company HomeAway

*By Steve Law
February 21, 2018*

Austin travel company will start heeding city requirements to collect lodging taxes from guests, but city granted concession to allow company to work on registering its own hosts.

The city of Portland reached a lawsuit settlement Wednesday, Feb. 21, with short-term rental company HomeAway, which will require the company to start collecting lodging taxes from guests and allow the company to do on-line registration of its local hosts.

HomeAway, an Austin, Texas-based company that also operates VRBO and VacationRentals.com, agreed to pay the city \$275,000 to release all claims against it.

"When the city of Portland filed its lawsuit in 2015, it was seeking fair hotel tax collection and the locations of short-term rentals to ensure they are permitted and following the rules," Mayor Ted Wheeler said in a prepared statement. "This settlement delivers on both of those goals and opens the door to a partnership with HomeAway."

Council Race Generates Cash, Endorsements

By Jim Redden

February 22, 2018

Plus, the New York Times turns on Portland and gang violence turned deadly in January.

The race for Portland city Commissioner Dan Saltzman's seat is heating up, with big-name endorsements and large contributions.

In recent days, NAACP of Portland president Jo Ann Hardesty was endorsed by the Portland Association of Teachers. That was something of a surprise, because Multnomah County Commissioner Loretta Smith won the nod from the Northwest Oregon Labor Council.

Not surprisingly, Smith also recently was endorsed by Oregon U.S. Sen. Ron Wyden, and received \$1,000 from his campaign committee. She worked for Wyden before being elected to the Multnomah County Board of Commissioners.

The largest single contribution in the City Council race went to Northwest Portland neighborhood activist Felicia Williams. On Feb. 11, Williams received \$41,000 from her partner, Erik Tucker, the co-founder and chief operating officer of Aronora Inc., where she works. He also gave her a \$4,000 contribution and \$20,000 loan last year.

Other big contributions in the race include \$15,000 to Smith from the Local 48 Electricians PAC, \$5,000 to architect Stuart Emmons from developer Lance Killian, and \$2,500 to mayoral staffer Andrea Valderrama from developer Marty Kehoe.

New York Times turns on Portland

After fawning over Portland for years, The New York Times suddenly has discovered the city has problems. The national daily focused on Portland to prove methamphetamine has made a comeback, in a Feb. 14 front-page article headlined "Meth, cheaper and deadlier, is surging."

The story opens with what reporter Frances Robles describes as homeless drug users living in a tent on sidewalks outside the train station in Northwest Portland.

"Everybody has meth around here — everybody," the article quotes Sean, a 27-year-old heroin addict as saying. "It's the easiest to find."

According to the article, since Oregon restricted access to ingredients for home-made meth in 2006, Mexican drug cartels have flooded the state with a cheaper and stronger version of the drug.

Now even longtime crack cocaine addicts are switching over to it, the article quotes Portland police Officer Branden Combs as saying.

Gang violence turns deadly

Although total gang violence did not increase in January compared to last year, the number of fatal incidents is spiking.

The Portland Police Bureau's Gang Enforcement Team investigated eight incidents in both January 2017 and 2018. Although no one is usually injured in such incidents, three known gang associates were killed this January. The last one was well-known Hoover gang member Davonte Kerney, who was murdered downtown on Jan. 31.

Adding to the concern, police arrested three men and recovered three firearms in Northeast Portland on the day of Kerney's funeral. Police say it is common for gang members to carry firearms for protection or retaliation while attending or after a gang-related funeral.

Height and View Corridors: A Simple Plan

*By Brian Libby
February 21, 2018*

Increased central-city height is inevitable, so let's make sure it's in the right places

Over the last few months, as Portland's City Council has begun deliberating the Central City 2035 plan's proposed zoning changes, there has been a spirited public debate about building heights, view corridors and our connections to Oregon's majestic landscape.

As seen in numerous op-eds and editorials, TV news stories and impassioned social media conversations, Portland is searching for a way to accommodate a burgeoning population the right way — especially amidst an affordable and homeless housing crisis. There is more pressure than ever before to maximize space by growing taller.

We've also seen two high-profile recent proposals that seek to blow past Central City 2035's proposed height increases. One, a cluster of buildings at RiverPlace and designed by celebrated Japanese architect Kengo Kuma, includes some affordable units as bait. The other, an eye-catching but not very credible proposal by local firm William Kaven Architecture for twin 95-story towers at the U.S. Postal Service's soon-to-be vacated Pearl District site, is an act ofchutzpah aimed more at changing the conversation than actually breaking ground.

Beyond the building industry, many ordinary citizens are expressing concern about lost quality of life, whether through historic buildings dwarfed by new neighbors or blocked views of Mt. Hood from public vantage points like Waterfront Park and the Vista Bridge. Some are genuinely motivated by broadminded civic concerns. Others are out to protect their own views from condo buildings that blocked the views of others.

While much of this debate represents an inevitable series of urban growing pains, perhaps there is room for compromise — at least as it relates to downtown.

Central City 2035 proposes increasing allowed heights at the Morrison and Hawthorne bridgeheads, a practice which, like South Waterfront a decade ago, essentially would break from a long tradition of stepping down to the river. The justification given is that the bridgeheads are close to transit.

But our two tallest buildings, the Wells Fargo Center (546 feet tall) and the U.S. Bancorp Tower (536 feet), are located on the Portland Transit Mall, which checks the same transit-adjacent box. What if instead of increasing heights at the bridgeheads — from 200 to 325 feet at the Hawthorne and 250 to 325 at the Morrison — we instead allowed greater height at the Transit Mall?

Currently, there's a height limit there of 460 feet to the north, which will remain, and an increase of 300 to 460 feet proposed for the south end. Why not at least allow buildings there to go as tall as the Wells Fargo and Big Pink already have? Why not even allow something a little bit taller? It would create a potentially powerful architectural symbol of Portland's future for our generation, yet it wouldn't block popular views of Mt. Hood from public locations like the Salmon Springs Fountain.

Portland will never be a city of ultra-tall skyscrapers like Hong Kong or New York City, and given Oregon's beautiful terrain of Cascade peaks, that's a good thing. At the same time, it's unreasonable to suggest a metro area of more than 2.3 million people with an urban growth boundary at its perimeter can't or shouldn't grow taller. Within those extremes is a reasonable way forward, which city planners have already long since committed to pursuing: more height, but in the right places.

Brian Libby is a Portland freelance journalist, critic and photographer who has contributed to The New York Times, The Atlantic and Dwell among others. His column, Portland Architecture, can be read monthly in the Business Tribune or Online at: portlandarchitecture.com

Willamette Week

Salt Saved Portland From Car Pile-Ups and Commute Hysteria This Week

*By Elise Herron
February 21, 2018*

That, and smart Portlanders staying off roads.

When Portland got a couple inches of snow last winter, the city straight-up panicked.

Drivers crashed or abandoned their cars, commutes lasted 10 hours, and Uber and Lyft calls became so numerous that the rideshare companies surged lift prices by 550 percent.

This week a front dumped another three inches on Portland. Yet we're fine.

According to the Portland Bureau of Transportation, that's largely thanks to road salt.

"We knew what was coming this year," says PBOT spokesman John Brady. "We had crews working 24-hours a day, in 12-hour shifts, to keep roads clear."

Brady says trucks began salting roads over the weekend, which helped keep major streets in Portland's hills—like West Burnside Street and Skyline Boulevard—functional.

"Some cars still ignored the 'chains required' sign," Brady says. "But after we ticketed and towed them, the salt seemed to help."

Before the snow arrived late yesterday afternoon, the transportation bureau also held a press conference with Mayor Ted Wheeler and City Commissioner Dan Saltzman—urging Portlanders to stay off roads and updating people on the city's plans to keep streets clear.

One plan included outfitting Water Bureau trucks with plows, to increase Portland's fleet of 55 snowplows and avoid having to borrow plows from Seattle—like we did last year.

At least anecdotally, Brady says, it would seem Portlanders heeded the advice of the National Weather Service and city officials to stay off roadways during peak commute hours.

Also, he adds, the snowstorm hit later than expected yesterday afternoon, which gave people more time to get home before the roads were at their worst.

"I think the December 2016 gridlock was on people's minds," Brady says, "and that people are starting to change their behavior."

Maybe half a foot of snow is the new winter normal for Portland—or at least we're learning how to survive it.

Neighborhood Leader Warns: By Preserving Views, the Pearl District Could Become a “Gated Urban Community for the Landed Class”

*By Rachel Monahan
February 22, 2018*

Others warn of the "uglification of our city," as City Council hears testimony on a project that would build hundreds of apartments on what's now a surface parking lot.

Portland City Council heard testimony Wednesday from the Pearl District residents who live in tall towers and oppose another tall tower slated to rise near the Fremont Bridge.

Their crusade, and similar ones, were the subject of a recent WW cover story.

Critics of the Fremont Place Apartments may not agree on much with the building's supporters, but they do see eye-to-eye on one thing: the decision by City Council on whether the project gets built as planned will be a harbinger of what the city becomes.

"Ultimately the debate is about what kind of city we want to become," wrote Michael Mehaffy, president of Goose Hollow Neighborhood Association, whose testimony was read at Council on his behalf. "Should we become a city that surrenders its heritage in an ill-considered rush to address its short-term problems with a simplistic 'build, baby, build' solution? Are we disturbed by the growing uglification of our city?"

Residents of Pearl District condos fear a new development will block views of the Fremont Bridge from their windows and Fields Park. (Abby Gordon) Residents of Pearl District condos fear a new development will block views of the Fremont Bridge from their windows and Fields Park. (Abby Gordon)

Dozens showed up to oppose the project, arguing the city should preserve views of the Fremont Bridge from Fields Park.

Just a handful came out to support the Fremont Place Apartments, other than its developers.

But among them were two past presidents of the Pearl District Neighborhood Association.

"I am horrified by the idea that this neighborhood could become an urban gated community for the landed class," wrote Patricia Gardner in a longer letter to City Council, before her testimony.

"The idea that this neighborhood could not live up to the density that it was destined for because the 'I've got mine' crowd moved in would be beyond criminal if only because the millions and millions of public dollars that have gone into the creation of this neighborhood."

The city's design commission has approved the project, but the Pearl District Neighborhood Association has appealed in an attempt to halt or modify the project that would block views of the Fremont Bridge.

City Council is expected to decide the issue on March 7.

Property Magnate Jordan Schnitzer Has a Scofflaw Parking Garage. The City Knows But Hasn't Shut It Down.

By Rachel Monahan

February 21, 2018

If a company has deep enough pockets, it can treat city fines like a speed bump.

Parking in the U-Park garage at Northwest Broadway and Flanders Street isn't cheap: Posted rates range from \$4.50 an hour to \$14.50 a day.

But the spaces aren't supposed to exist at all. The garage's owner is operating it in defiance of city zoning code—paying \$1,400 a month in fines rather than follow city rules and shut the garage down.

The scofflaw garage is owned by Harsch Investment Properties, the real estate empire run by Jordan Schnitzer. The fines seem barely to dent the profits Harsch garners from renting parking spaces.

"It appears the monthly code-enforcement fees have become the cost of doing business," says Michael Liefeld, who runs enforcement at the city's Bureau of Development Services.

Harsch is exploiting a loophole in city policy. Portland usually relies on the threat of fines to force property owners to follow the rules. But if a company has deep enough pockets, it can simply treat the fines like a speed bump.

And unless officials at BDS receive more complaints from the public, they rarely increase the financial penalties beyond doubling them after three months.

City rules say that parking garages can't expand their operations except under limited exceptions. Yet Harsch expanded parking at the garage from eight city-authorized parking spaces to more than 50 by 2015, according to bureau records.

City Commissioner Chloe Eudaly says it's a tough call how BDS should approach the problem, given that the violation isn't a safety hazard. But she described Harsch as operating as if it were above the rules.

"We see this a lot in different arenas," Eudaly says. "Businesses just flout the rules and write off the penalty."

The scofflaw garage is defying Portland rules intended to limit car traffic downtown.

In the late 1970s, Portland restricted parking in the central city as part of an effort to improve air quality.

Restrictions on parking persist for other reasons, too: encouraging commuters to take public transportation and creating a walkable downtown, both of which have put Portland on the map of desirable small cities.

Watchdogs of city parking policy say the city's rules are designed to reduce cars clogging downtown streets.

"They call for reductions in single-occupancy vehicles," says Tony Jordan, founder of Portlanders for Parking Reform, a group trying to reduce car use.

"Adding any parking is allowing for more traffic that will make it harder to meet our goals."

The city allows new parking to be added in the central city if developers build housing or commercial space. Harsch did neither.

A company spokesman claims it is trying to address the problem. "We have been working closely with the city and GBD Architects on the parking permitting process in an effort to be fully compliant with all city regulations," says David Shane, who declined to comment further.

City officials have known the garage was breaking the rules for more than two years, and in 2016 they started levying fines, now totaling \$28,380.74.

Harsch paid the fines and continues to cash in on the garage, whose posted rates suggest it could have brought in more than \$360,000 over that period.

The bureau has the authority to take property owners before a city hearings officer and begin levying fines of \$1,000 a day. But it hasn't done so with the Harsch garage—in part because it was waiting to hear more public complaints, and nobody else complained.

Liefeld says such fines are usually reserved for situations that pose an immediate risk to health or safety or for other high-priority reasons. But when WW presented him with details about the Harsch garage, Liefeld acknowledged the case may qualify as a "gross" violation.

"We don't track every case that's being assessed," he says. "We only figure out these things if someone calls."

Murmurs: Oregon Lawmakers Move to Protect Domestic Violence Victims

*By WW Staff
February 21, 2018*

In other news: Wheeler adds his support for cracking down on car thieves.

Oregon Lawmakers Move to Protect Domestic Violence Victims

Legislators appear willing to address weaknesses in Oregon laws protecting victims of domestic violence. After passing the House last week on a 37-23 vote, the "boyfriend loophole" bill—designed to take guns away from those convicted of domestic violence or subject to stalking orders—appeared poised to pass out of the Senate Judiciary Committee at press time. That would set up a Senate floor vote on Gov. Kate Brown's top priority for the short session. Meanwhile, Senate Bill 1562, which broadens the definition of strangulation and increases the penalty for that crime from a misdemeanor to a felony, won unanimous approval by the Senate on Tuesday and now moves to House.

Wheeler Adds Support for Increasing Car Theft Convictions

Portland Mayor Ted Wheeler has added his voice to a chorus of support for a bill that would make it easier to convict people arrested behind the wheel of a stolen car. In written testimony submitted to the House Rules Committee on Feb. 20, Wheeler said the legislation would "help address the growing problem of car theft in Oregon, the impacts of which are acutely felt within the city of Portland." He noted the skyrocketing number of vehicle thefts in Portland disproportionately impact low-income residents whose most valuable possession is often a car. House Bill 4161 has support from prosecutors, defense attorneys, law enforcement leaders and many legislators, including committee chairwoman and House Majority Leader Jennifer

Williamson (D–Portland). The most likely obstacle for the bill now would be a costly fiscal impact estimate, which killed a similar bill in 2017.

Republicans Add New PAC

Although Democratic dominance of the Oregon Legislature and most statewide offices looks set to continue, Republican funders are doing their best to fight back. The latest entrant: ActionPAC, a new entity formed by GOP political consultants Jim Pasero and Bridget Barton, whose Oregon Transformation Project funded a brief GOP takeover of the Clackamas County Commission in 2012. Now with a \$250,000 initial contribution from Hank Swigert, the 87-year-old scion of the family that founded the Portland steel foundry Esco Corp., Pasero and Barton will seek to "promote a stronger Oregon economy and a more business- and job-friendly atmosphere." ActionPAC hasn't begun spending its money yet.

Proposed Business Tax Draws Legal Challenge

A proposed Portland ballot initiative to impose a tax on large retailers to pay for renewable energy projects faces a technical and legal challenge. The initiative, backed by environmental advocates, would institute a 1 percent tax on Portland sales by retailers with at least \$1 billion in sales nationally and \$500,000 in Portland. On Feb. 13, Pat McCormick—a Portland public relations consultant and spokesman for the successful campaign to defeat Measure 97, which also would have imposed a tax on large retailers—sued in Multnomah County Circuit Court over both the ballot title and whether the initiative is constitutional.

The Portland Mercury

Portland Has Settled Its Years-Long Beef with HomeAway

*By Dirk Vanderhart
February 21, 2018*

The city's long war with HomeAway appears to be at an end.

After a dispute that included three separate lawsuits and forced City Hall to ask voters for a change to the Portland charter, the city announced this afternoon it's reached a settlement with the short-term rental provider. That settlement involves reaping millions less than the City of Portland has claimed in the past HomeAway owes in lodging taxes, but could ensure the company—which includes HomeAway.com, VRBO.com and VacationRentals.com—will follow the letter of the law moving forward.

"This settlement is good news for our thriving tourism industry," Commissioner Nick Fish is quoted as saying in the release. "It levels the playing field for all hosts and helps us ensure that guests will be safe."

The city's beef with HomeAway began when the company refused to collect the six percent "transient lodging" tax Portland slaps on hotel stays. The city sued for \$2.5 million in 2015, with Portland's revenue director, Thomas Lannom, vowing: "We will not stand by while short-term rental websites flout basic consumer protection and tax laws."

But it wasn't quite that simple. HomeAway sued back, for starters. In both federal and state courts. And when a federal judge ruled that the city's charter language was getting in the way of officials being able to tax the company, city officials came to voters in May of 2017, asking them

to expand City Hall's authority under the charter. The measure passed with 62 percent of the vote.

So here we are today. As part of its settlement, the city says it will get \$275,000 from HomeAway—far less than it sought in past actions. Fish tells the Mercury that amount is close to everything HomeAway owes the city from the time voters changed city charter language.

In return, the city says the company has agreed to begin collecting lodging taxes as of April 1 (no word on why that date), and set up a robust registration system where hosts can use the site to apply for a short-term rental permit from the city.

HomeAway will pull any listings that don't obtain a city permit, the release says.

“When the City of Portland filed its lawsuit in 2015, it was seeking fair hotel tax collection and the locations of short-term rentals to ensure they are permitted and following the rules,” Mayor Ted Wheeler is quoted as saying in the release. “This settlement delivers on both of those goals and opens the door to a partnership with HomeAway.”

In Texts to Business Lobby, Mayor's Office Pledged to Dramatically Increase Portland's No-Sit Sidewalks

*By Dirk VanderHart
February 21, 2018*

"Whatever It Takes," Mayor Ted Wheeler Wrote Last Year, After Columbia Threatened to Pull Out of Downtown

WHEN COLUMBIA SPORTSWEAR threatened to pull one of its companies out of downtown Portland last November, Mayor Ted Wheeler's office started making promises.

In text messages between Wheeler, two members of his staff, and the leader of the Portland Business Alliance (PBA), Wheeler's office suggested it would address Columbia CEO Tim Boyle's concerns by beefing up police presence and blanketing downtown sidewalks with signs prohibiting people from sitting during the day.

“Whatever it takes,” Wheeler wrote in a November 14 text obtained via the state's public records law. “This story is NOT the final takeaway we want for the holiday season.”

The previously unreported assurances, made to PBA President and CEO Sandra McDonough, show a striking deference to the prominent business group as Wheeler worked to keep Columbia's Sorel brand headquartered downtown. For years, the PBA has pushed the city to dramatically expand the number of block faces where homeless people aren't allowed to sit during the day, but the organization has had limited success in convincing officials such a move was warranted.

That looked likely to change on November 14.

“We should have some significant progress on your map before the end of the year,” Jennifer Arguinzi, a Wheeler aide, told McDonough in the text conversation, referencing a map of block faces the PBA wants turned into no-sit zones. Later, she suggested to McDonough that all of the PBA's targeted blocks would be approved in 2017.

The conversation offers insight into a dust-up that led to protests against Wheeler and Columbia.

Four days before the text messages, Columbia's Boyle had lobbed a bomb. In an op-ed in the Oregonian, the businessman threatened to move Sorel headquarters, citing car break-ins and unsettling interactions employees had with people on the street.

"We are so concerned that we brought together senior management this week to talk through the challenges and options for addressing it, including a review of whether to stay downtown," Boyle wrote.

Wheeler's office responded by calling a meeting with businesspeople on November 21 and pledging to bolster foot patrols downtown. Wheeler also declared eight downtown sidewalks—including those outside of Columbia's flagship downtown store—as "pedestrian use zones," meaning they were off-limits for sitting from 7 am to 9 pm.

Civil liberties and activist groups weren't pleased. A protest outside of Columbia's flagship store on December 2 forced the business to close for the day. Homeless advocates accused Wheeler's office of acting hastily in order to appease business interests.

The text conversation from November 14 shows the role the city's business lobby played in shaping that controversial response.

In the discussion, McDonough dictates timing she believes is necessary for rolling out no-sit zones ("end of the year is way too late"), and suggests Wheeler create new police foot patrols ("retailers and shoppers love that"), which Wheeler agreed with. Notably, McDonough anticipates the outcry Wheeler can expect when he expands no-sit zones, and attempts to help the mayor's office strategize to avoid it.

"If you guys just do the Columbia Sportswear corner this month the headline will be 'big-time business guy complains and the Mayor takes care of him,'" McDonough wrote at one point to Wheeler, Arguinzoni, and Maurice Henderson, Wheeler's chief of staff. "The Old Town people will be incensed. You really need to do several streets at the same time."

Arguinzoni hastened to clarify minutes later. In a text sent only to McDonough, she wrote: "Hey. I was just trying to emphasize that [Columbia's sidewalk] will be taken care of. We should complete the entire map by the end of the year, but are prioritizing the first phase ASAP."

"I know you are but the backlash could be bad," McDonough responded. "I am worried about your boss."

It's not completely clear what Arguinzoni meant by "first phase." The most recent map [PDF] of suggested no-sit zones the PBA has given to officials shows some blocks highlighted in blue and others highlighted in red. Arguinzoni appears confused in the texts about which should happen first.

Either way, Arguinzoni's interest in completing the PBA's entire map would represent a big change in where homeless people are legally allowed to sit downtown. For years, the PBA has pushed a list of more than 100 block faces where it believes the city should outlaw sitting during the day.

Under a sidewalk use policy the city passed in 2010, the Portland Bureau of Transportation (PBOT) is allowed to prohibit individuals from sitting in areas where doing so could create "a heightened threat to life or safety." PBOT will also post signs on any sidewalk if the police ask for them. Violations are punishable by a \$250 fine.

The existing policy came on the heels of the city's old "sit-lie" law, which issued a blanket prohibition on sitting on downtown sidewalks. That law was ruled unconstitutional, but critics of the "sit-lie" provision have argued its replacement isn't much better.

The conversation revealed in the text messages is just a portion of a lobbying blitz the PBA directed at City Hall regarding similar concerns late last year. From October through the end of 2017, records show that the PBA had contacts with city officials over “livability” or “sidewalk management” issues at least 15 times.

Still, it’s clear the city hasn’t acted on the timetable McDonough was told to expect. No block faces have been made off-limits since the expansion in November.

“Jennifer’s text message was written prior to our town hall with downtown businesses and prior to adding signage to the eight block faces,” says Michael Cox, Wheeler’s deputy chief of staff. “Our plans evolved over the days subsequent to her message.”

That’s not to say the expansion is over. Wheeler’s office is currently considering new restrictions on Old Town sidewalks, Cox says, including 10 or so that are on the PBA’s wish list.

McDonough says she’s happy to wait.

“We never requested nor expected that all of the Alliance-suggested areas would be implemented as high-pedestrian zones immediately,” she said in a statement to the Mercury. “Rather, we suggested they be implemented over time based on need and we also suggested the locations could shift over time.”

Meanwhile, the ACLU of Oregon, which has criticized the no-sit policy, was nonplussed to hear of last year’s exchange.

“Pitting Christmas shoppers against homeless people will not solve Portland’s housing crisis, says the group’s communications director, Sarah Armstrong. “We encourage Mayor Wheeler to think creatively and with compassion when weighing the needs of businesses against the most vulnerable among us.”

Hall Monitor: The Housing Bureau Goes Fishing

By Dirk VanderHart

February 21, 2018

As Apartment Projects Slow, Can the City Convince Developers to Offer Cheap Units?

IN MARCH 2016, Portland won permission to force developers to build affordable housing. Developers struck back.

In a pell-mell period lasting nearly a year, developers clogged the city’s building permit pipeline with 19,000 proposed housing units—scrambling to get them submitted before Portland’s affordable housing mandate began in February 2017.

Some of those projects were the equivalent of spaghetti thrown at the wall. Some were legitimate proposals. But the rub for the City of Portland was that, because they were submitted prior to the cutoff date, none would be required to offer affordable units.

Now the city’s trying to convince those trigger-happy developers to get on board anyway.

According to a proposal that the Portland Housing Bureau (PHB) unveiled late last month, officials will try to entice builders to voluntarily include affordable units. To do that, PHB plans to revive a tax exemption program that’s been sitting on the shelf: the Multiple-Unit Limited Tax Exemption, or MULTE, program.

Yes, MULTE has a stultifying name, but its concept is simple: The city's going to dangle the promise of 10 years of property tax exemptions in front of developers—if they pledge to make a percentage of their new buildings affordable for those same 10 years.

How affordable? The plan the city's considering would require one-fifth of a project be affordable to people making between 60 and 80 percent of the area's median family income, which ranges from \$40,380 to \$53,800 per year for a three-person household

The offer would be open to developments anywhere in Portland, but the program would max out once PHB awards \$3 million in tax exemptions over a two-year period.

The big question is: Will anyone bite? PHB thinks so.

As I've reported, the city's new mandatory affordability policy—called inclusionary housing, or IH—has coincided with a steep downturn in the number of housing units proposed in the city.

In the year since IH was put into place, the city fielded applications for 682 units of housing. In comparison, from 2013 to 2017, the city built between 3,000 and 6,000 units per year.

The reasons for this change are disputed. Some say the IH policy has made building in Portland unappealing. Others point to different factors—like rising construction costs, a softening of rents, and the astronomical price of land in the city—that could be slowing things down.

The reality is probably a mix of those things, but the city is hoping that rising costs and cooling rents are the big factor. If that's the case, the same developers who flooded the city with permit applications prior to IH might now be hungry for the tax exemptions the PHB plans to offer and—voilà!—affordable units.

There are certainly plenty of projects that would, in theory, be eligible for this deal. According to a recent report from the Portland Bureau of Planning and Sustainability, there are thousands of units of housing sitting in the city's permitting pipeline.

Even a fraction of those offered at below-market rates would be progress. If there's one thing the city's housing crisis has shown, though, it's that in Portland, progress rarely comes easily.

The Portland Business Journal

City of Portland Announces it Will Sue Drug Industry Over Opioid Crisis

*By Elizabeth Hayes
February 21, 2018*

Six months after Multnomah County filed a \$250 million lawsuit against Purdue Pharma and other opioid manufacturers, the Portland City Council unanimously decided to also take legal action.

The City Council today directed the Portland City Attorney to sue opioid manufacturers and distributors to recover the funds it has expended fighting the opioid crisis.

“Three Oregonians die every week due to prescription opioids, and cities like Portland are on the front lines,” Mayor Ted Wheeler said in a written statement. “Drug manufacturers must be held accountable for their products, and I’m proud of our community for taking a stand against this epidemic.”

On Tuesday, the Clark County Council in Washington also voted to retain a law firm to sue opioid manufacturers and distributors, adding to growing list of cities and counties that are suing the industry.

Drug makers recently tried to move Multnomah County's lawsuit from state circuit court to U.S. District Court, as a precursor to the case being consolidated with 200 similar lawsuits pending in Ohio. U.S. Magistrate Judge John Jelderks, however, sent that lawsuit back to state court.

The city of Portland plans to file its lawsuit in federal court, where it will likely to be transferred to the multi-district litigation in Ohio, the city announced.