

The Portland Tribune

City Issues Uber a \$3.5 Million Ticket

By Steve Law

March 13, 2018

Portland renews company's operating permit for six months instead of a year, while it reviews new regulations and sees if fine is paid for failing to notify the city until a year after a data breach occurred.

The city has fined Uber nearly \$3.5 million and renewed its permit to operate in Portland for just six months instead of a year — essentially putting it on probation while the City Council ponders stiffer regulations, such as requiring Uber and Lyft to carry the same liability insurance as taxis.

The political tides have shifted dramatically for Uber in Portland, after revelations it used special Greyball software to evade city regulators when it began operating here illegally in 2014, and then took a year to notify the city and state that its driver and passenger records were hacked.

In addition, the pro-Uber majority on the City Council evaporated in last year's elections, when the company's two biggest champions, then-Mayor Charlie Hales and City Commissioner Steve Novick, were replaced by Mayor Ted Wheeler and Commissioner Chloe Eudaly.

"There has been a shift and it's partly been a result of frustrations about how the industry has operated with the city," said Commissioner Nick Fish, who, along with Commissioner Amanda Fritz, voted against a major rewrite of taxi regulations in late 2015 that paved the way for Uber to enter and dominate the market. "I just want Uber to play by the rules and be a good corporate citizen," Fish said.

Commissioner Dan Saltzman, the lone holdover who voted for that code, now oversees the Portland Bureau of Transportation, which regulates the industry, and he appears opposed to major changes.

However, Fish said all his peers on the City Council now want to revisit city regulations. That means the council won't defer to the commissioner who oversees the bureau in charge, as is customary.

The council will debate liability insurance, added safety requirements and the city's oversight body for Uber, Lyft and taxis, Fish said. Other issues also could come up, such as driver pay.

A tentative initial council hearing had been considered for early April, but that has been put off.

Saltzman did not respond to interview requests, but even he is getting tougher on Uber, despite his lame-duck status after deciding he won't seek re-election this year.

On Jan. 29, Saltzman issued a \$3,475,000 fine against Uber for failing to meet city code that requires it to notify the city when there is a data security breach. He also extended Uber's operating permit on Feb. 1 for only six months, turning what had been a routine one-year renewal into a warning shot.

"Uber has had a difficult relationship with the city of Portland dating back to December 2014," Saltzman wrote in his letter issuing the fine. "In 2014, Uber used a tactic that has become widely known and reported as Greyballing to thwart regulators while Uber was attempting to illegally establish operations in Portland. The failure to report the data breach to those affected and the state and city, as required by state law and city code, shows a continuing disregard for Portland laws and regulatory structure ..."

Uber is aggressively contesting the fine and was scheduled for an appeal hearing on Tuesday, March 13, before the city hearings office.

In its appeal brief, Uber accused the city of "engaging in breathtaking overreach to fill its coffers," and said there was no deadline to notify the city of the data security breach, so taking one year should not be a violation. The city levied a separate \$2,500 fine for all but two of the 1,389 Uber drivers whose Oregon driver's license numbers were hacked.

Uber's lawyers wrote that if there was a violation, there would have been only one, and added that only 328 of those drivers were operating in the city and under the city's jurisdiction.

"While we disagree with the city's basis to pursue a civil penalty, we do not minimize what occurred," Nathan Hambley, Uber spokesman for Oregon, said in a prepared statement. "Uber's new leadership has taken a series of steps to be accountable and respond responsibly. We will continue working with the city to try to engage in a constructive dialogue and resolve this matter fairly."

Uber's brief also questioned whether anyone whose name and driver's license number was hacked could be a victim of identity theft. The city disagrees.

"I believe that's why we fined them," said Dylan Rivera, spokesman for the Portland Bureau of Transportation, often dubbed PBOT.

The agency is clearly using the six-month permit renewal for leverage.

Renewing Uber's permit to Aug. 1 "allows the fine to play itself out," said Dave Benson, PBOT's parking services group manager. "The sentiment was we'll continue for six months and then make a decision."

Uber and Lyft lobbied PBOT heavily when the city deregulated its taxi market in late 2015, and some suspect Uber's handiwork in writing the new city code.

Taxi companies unsuccessfully argued they paid \$1 million in liability insurance and questioned why Uber and Lyft provided only \$100,000 for what's called Period 1, when Uber and Lyft drivers are cruising around waiting to be dispatched.

Novick now says that's his biggest regret when he led the deregulation effort that paved the way for Uber and Lyft to operate legally. Uber and Lyft threatened to "make an example of us and simply pull out" if the city insisted on requiring the \$1 million insurance level for Period 1, Novick said, and Mayor Hales didn't want Portland to be one of the only cities in the U.S. not served by the companies.

Now Novick thinks the council should require the same insurance that taxis pay.

PBOT doesn't appear likely to recommend any changes to that requirement this time around.

"We talked to (Uber and Lyft) about what problem they're trying to solve," said Benson, who regulates the companies. Since the new code took effect in early 2016, there've been no insurance claims that reached more than half of that cap for Period 1, Benson said.

Steve Entler, general manager of Radio Cab, said the city should be more concerned. "Most of the accidents happen when you don't have a passenger in the car," Entler said. And he claimed that Uber drivers who get in accidents will often pull out their personal insurance cards when police arrive on scene, claiming they are driving on their own time, so Uber's insurance doesn't get charged.

"We haven't seen any evidence of that," Benson said.

But Entler said he's seen that happen when there are accidents involving Radio Cabs and Uber drivers.

"That's absolutely what happens," he said.

Saltzman and PBOT Director Leah Treat will look to the agency's Private For Hire Transportation Advisory Committee for guidance on what new regulations to present to the City Council, Benson said.

However, that committee hasn't been doing all that much since it was reconstituted, with reduced clout, under the new code.

"Mostly what we're doing is tuning up policy at the request of PBOT," said Mike Greenfield, the committee's chairman.

That means any suggested changes in the city's approach to Uber and Lyft likely will come from individual city commissioners, or from the public.

Willamette Week

Murmurs: The NBA Is Investigating Allegation Against Mark Cuban

*By WW Staff
March 14, 2018*

In other news: Oregonian owners eyeing web paywall.

NBA Investigating Allegation Against Mark Cuban: A lot has happened since we reported last week on a 2011 sexual assault allegation against billionaire Dallas Mavericks owner Mark Cuban ("Oh My F***ing Lord," WW, March 7, 2018). Most consequentially, The Oregonian found an employee of the Barrel Room, where the alleged assault occurred, whom police had never interviewed. That man reported Cuban was "gropey" and so drunk he was ejected from the club—but only after taking a photograph with a woman who "jumped away" from Cuban. The NBA announced it would open an investigation into the allegation against Cuban, who has adamantly denied any wrongdoing. Finally, Cuban's most visible employee, Mavericks head coach Rick Carlisle, went to bat for the man who signs his paycheck, calling WW's report "fake news."

Oregonian Owners Eyeing Web Paywall: Online readers of The Oregonian could soon run into a paywall on OregonLive.com. A representative of the newspaper's owner, Advance Publications, discussed a possible paywall with Oregonian staffers at a meeting in Portland last month, according to three people familiar with the conversation. Last week, Ken Doctor of Neiman Labs reported that Advance is likely to test a paywall at one of its newspapers this year—but the New Jersey-based media giant won't say which one. "If we decide to test anything," said Advance Local CEO Randy Siegel, "it will be a dynamic meter in a single market, but a final decision won't be made until much later this year."

Housing Bureau Seeks to Close Tax Loophole: The Portland Housing Bureau is looking to reform a tax-exemption program for low-income homeowners. The program currently transfers its tax breaks when a home is sold—meaning buyers who don't qualify for the low-income subsidy still get it passed along ("How to Flip a Tax Break," WW, Oct. 11, 2017). Next month, the bureau will take a code change before the City Council to institute a way to verify incomes

for any buyers beginning July 1, 2018. The Housing Bureau is still determining whether the change will affect existing home owners or just new applications. This week, the City Council will vote on routine enforcement and may cancel the tax exemption for 15 homeowners currently enjoying the break.

Portland Transgender Woman Sues Tinder: A Portland transgender woman is suing Tinder on March 13 for deleting her dating app profile after she added details about her legal sex work and transgender identity to her profile's bio. Ariel Hawkins says hours after she added the phrase "camgirl on the side. preop trans woman" to her profile, Tinder notified her via email that her account violated the app's terms of service and her account had been deleted. "I wanted to just find love like everybody else," Hawkins says. The company didn't respond to Hawkins' questions about why her account violated the app's rules. Other transgender women have alleged on social media that Tinder deleted their profiles without explanation. Hawkins' lawsuit, filed in Multnomah County Circuit Court, asks for a court order "prohibiting Tinder to continue discriminating against non-cisgender Oregon users."

Economists Say a Portland City Council Rejection of New Housing Sends Dangerous Signals

*By Rachel Monahan
March 14, 2018*

City leaders, who have talked for two years of a housing crisis, voted to preserve the status quo—at the expense of as many as 2,800 units of housing.

For the past 12 years, a vacant lot in Portland's Goose Hollow neighborhood once slated for development has remained untouched by shovels—a monument to the power of city government to obstruct development.

In 2006, the Portland City Council overruled an approval by the Design Commission for a 21-story condo tower on the site.

That was the last time the City Council voted to completely overrule the commission, a volunteer panel tasked with signing off on big construction projects.

Until last week, anyway.

On March 7, the City Council unanimously rejected a plan to develop a Pearl District parking lot into a 17-story building with 275 apartments near the Fremont Bridge. Neighbors, some concerned about their own views, had rallied against the project ("Sky Wars," WW, Jan. 24, 2018).

he vote was just one decision on a day of reckoning for the competing goals of dense housing stock and city's aesthetic character. City leaders, who have talked for two years of a housing crisis, voted to preserve the status quo—at the expense of as many as 2,800 units of housing.

The rejected projects, including a concept for waterfront skyscrapers designed by Japanese architect Kengo Kuma, will probably get another shot at approval. But observers say the chilling effect goes deeper.

By overruling the Design Commission and bowing to the outcry of neighbors, the City Council leaves developers uncertain about the rules for winning approval of projects.

"What I worry about is the message it sends to the development community," says Michael Wilkerson, a senior economist at ECONorthwest. "If you're expecting to go quickly through the design process, it can be slowed down and derailed."

It's not clear why the City Council thinks the Fremont Place Apartments warranted overruling the already persnickety Design Commission. City commissioners last week said they weren't convinced views needed to be preserved, and instead pointed to protecting the bike and pedestrian path along the river.

Related: [Portland City Council Votes to Overturn Approval for 275 Apartments That Would Have Blocked Views of the Fremont Bridge](#)

Commissioners declined to discuss details with WW, citing a legal prohibition on discussing land-use decisions until they are final. Last week's vote was preliminary—a final vote is in April.

But the March 7 council votes showcase the influence of a pernicious but widely held belief in Portland that the city does not need to encourage market-rate housing even as it deals with a housing crisis for low-income Portland residents.

"If you believe there is an emergency, the solution is to get more housing built," says economist Joe Cortright.

A recent building boom has helped slow rent increases. Two years ago, economists at ECONorthwest found only 1 percent of buildings in the metro area hadn't had a rent increase that year. They now estimate 12 percent of buildings didn't see rent go up in 2017.

Economists say the crisis will only worsen for lower-income Portlanders if private development dries up, placing higher-income renters in competition with their lower-income neighbors.

The vote also showed the influence of Commissioner Nick Fish, who for years oversaw the Housing Bureau and has served as a mentor for Mayor Ted Wheeler and Commissioner Chloe Eudaly in their first year. Fish sided with Commissioner Amanda Fritz, an opponent of tall buildings—and the rest of the council followed.

But it also raises questions about Fish's commitment to housing.

In the midst of his re-election campaign, Fish sided with the voices who have been lobbying against development, including Stanley Penkin, president of the Pearl District Neighborhood Association, a longtime ally and donor to Fish's campaign (he gave \$500 in September).

"I have never spoken to Stan Penkin about this project," says Fish. "He has been very careful about not talking to me about that project."

When asked by WW to square his vote with a commitment to housing, Fish defended his decision. "This design can be better and more in the public interest," he says. "We have every right to challenge developers to deliver a better product."

Wheeler tells WW he will seek a second look at the decision.

"I believe additional information is needed in the record before we make a final decision," says Wheeler in a statement. "On April 4, when the matter is scheduled to return to Council, I will make a motion to continue the hearing and reopen the record."

Developers remain alarmed.

"I have heard from multiple developers that they are hesitant to invest in the Portland central city since the City Council decision," says Kurt Schultz, principal with SERA Architects. "It's now too risky."

The Portland Business Journal

Five Things to Know Today, Including Portland Mayor Ted Wheeler's Volumes-Speaking Letter as Students Go Silent

*By Andy Giegerich
March 14, 2018*

One challenge in writing up this little daily roundup (we call it Five Things, you can call it what you want) is finding different ways to introduce it.

It's best not to recycle these intros. So, call it a non-repeating decimal-influenced column. And, for today, 3/14, we'll call it Pi's Things. Happy Pi Day, Portland.

Take a look

Dr. Brian Druker took the PBJ's Elizabeth Hayes and Cathy Cheney on a tour this week.

Not just any tour. Druker showed the duo the latest work on the Knight Cancer Center, OHSU's incoming (and badly needed) spot at which Druker and his team will ply their research handiwork.

Droning on

Insitu has a new CEO.

She's, as Malia Spencer writes, someone who might seem a bit familiar to those who've tracked doings at Adidas and a few other local outfits.

Big company on campus

Spencer also weighed in with a piece about Vacasa's growth in Portland.

Specifically, it's buying another building near its existing HQ in the Pearl District. As Vacasa is keeping its other structure, the purchase means, yes, Vacasa's building what's effectively a new campus.

Just for grids

From the PBJ's Pete Danko this morning comes word that California's looking to, again, make an effective energy grid happen.

As it turns out, Oregon and its hydropower may have an avenue to help ensure said grid operates more consistently.

Of note

Students across the state and the country will make their concerns about school shootings — about the availability of assault weapons, about the loosening of laws to make these weapons more widely available, about living in fear — today.

Portland Mayor Ted Wheeler sent the below letter around yesterday.

Dear Students,

Last month, 17 people were shot and killed at Marjory Stoneman Douglas High School in Parkland, Florida when a gunman with an AR-15 opened fire. More than a dozen people were injured.

As students, you already know more about mass gun violence than anybody should. You have practiced mass shooter drills and you have lived life under threat as if this is how life in America is supposed to be.

The Parkland shooting was the ninth deadliest mass shooting in American history. Think about that. A shooting that took the lives of 17 people ranks ninth. Less than six months ago, 58 people were killed at a music festival in Las Vegas; 422 were injured. Less than five months ago, 26 people were killed at a church in Texas. According to the New York Times, more than 438 students and teachers have been shot in at least 239 school shootings since Sandy Hook in 2012.

Every time there's a mass shooting, we go through the same cycle. A horrific shooting. Thoughts and prayers. Calls for action that fade away. We forget. Another horrific shooting. The same gun. The same cycle.

The truth is it doesn't have to be this way.

This time feels different. People are waking up because students like you have taken bold and direct action. You have reminded us that because this issue impacts you more than anyone, your voice should matter as much as anyone's. You have not let us get away with thoughts and prayers alone. You will no longer be silent as your peers die and the adults elected to protect you do nothing. You are standing up for what you believe in and holding adults accountable.

My daughter was in kindergarten the same year as the shooting at Sandy Hook. Now that she is 11, she will be looking to you as leaders and role models. It is you, students, who are leading the way to real national change. I applaud you.

I want you to know that you have my full support as you participate in the March 14 School Walkout to End Gun Violence and the March 24 March for Our Lives.

Tomorrow, one month to the day after the Parkland shootings, I will recess our City Council meeting for 17 minutes in support of your efforts, one minute for each life lost in Florida.

Don't listen to people who tell you you're too young, who tell you that you don't understand, who tell you won't get into college if you protest. Universities around the country, including Portland State University, have explicitly said any disciplinary action resulting from your activism will not affect your chances of admission.

This is your time. Young people have read the headline "deadliest mass shooting in history" too many times. We've experienced shootings in Oregon. We've seen how close to home this can be.

In 2012, a gunman opened fire at Clackamas Town Center, killing two people and seriously injuring a 15-year-old girl. In 2014, a 14-year-old Reynolds High School student was shot and killed by a student with an AR-15 he brought in a guitar case on a school bus. And in 2015, an Umpqua Community College student killed eight classmates and his professor, wounding nine others.

I support common-sense gun safety legislation, which reduces gun violence and save lives. I support the termination of gun sales to anyone under 21 years of age. I support renewing the ban on assault-style rifle sales.

I support you as you make your voices heard. I also appreciate your teachers, administrators and parents, who have worked with you to create a safe and responsible location to hold your demonstration. This is an important, teachable moment for all of us.

You inspire me.

Sincerely,

Mayor Ted Wheeler