

The Oregonian

Portland to Settle with Wheelchair Users for \$113 Million in Sidewalk Fixes

*By Gordon Friedman
May 10, 2018*

Portland is preparing to settle a class action legal dispute with mobility-disabled residents by agreeing to upgrade more than 16,000 sidewalk ramps at a cost of \$113 million over the next 12 years.

The settlement, if approved Wednesday by the City Council, promises to change how Portland builds and maintains sidewalks – changes that are likely to affect wide swaths of the city as sidewalk improvements are made. For example, the city pledged to create 1,500 curb cuts a year, more than double the current rate of about 700 a year.

Copies of the settlement proposal and a projection of its financial impact were released Thursday to The Oregonian/OregonLive in response to a public records request. The projected cost of upgrading sidewalks is \$113 million, or about \$10 million a year.

The financial statement notes that the city is short on the settlement liability by \$52 million. A spokesman for Mayor Ted Wheeler said the city has multiple funding sources to draw upon to meet the settlement liability, adding that a financing plan is still under development.

Wheeler has set aside \$2.5 million in his proposed 2019 budget for upgrades to ramps on 455 corners. The council also approved \$10.5 million for curb cuts as part of a bond issuance adopted earlier this year.

As part of the settlement, the city will also survey every street corner for compliance, install proper sidewalk cutouts when constructing new roads and walkways and appoint a technical adviser to oversee the work.

City officials reached the tentative agreement after three wheelchair or scooter users complained the city wasn't complying with the federal Americans with Disabilities Act. Curb ramps play a central role in the lives of people who rely on mobility devices, advocates say, and their construction is regulated by the ADA. Without proper ramps, people who use wheelchairs can be forced to travel on the sides of crowded roadways, reroute themselves or get stuck trying to traverse grassy or muddy areas.

In addition to stepping up its work to make sidewalks accessible to people who use scooters, walkers and wheelchairs, the city agreed to pay each plaintiff a small personal sum plus attorneys' fees. The city is not required to admit wrongdoing, according to the proposed agreement.

An attorney for the plaintiffs, Linda Dardarian, said Thursday that the proposed settlement marks a huge achievement for people who rely on wheelchairs and other mobility devices. "It means that people with mobility disabilities will no longer have to ride in the street," said Dardarian, who is based in Oakland, Calif.

Commissioner Dan Saltzman, who runs the Portland Bureau of Transportation, the city agency charged with fixing sidewalk ramps, did not immediately respond to a message seeking comment.

Many cities struggle with requirements in federal law to build and maintain accessible curb cuts. But Portland is a particularly egregious offender. Of the city's more than 37,000 street corners, less than half have a curb cutout as of 2012, according to a Portland Bureau of Transportation webpage.

Implementing the settlement is subject to approval by the city council, the plaintiffs and a federal judge. If approved, priority will be given to improvement of corners at government buildings, schools, parks, transportation centers, hospitals and business areas.

The Portland Tribune

Washington Ruling Raises Questions About Tenant Protection Proposal

By Jim Redden

May 10, 2018

A judge has struck down a 'first come, first served' policy in Seattle that is similar to one being considered by Commissioner Eudlay.

A recent ruling by a King County Superior Court judge in Washington is raising questions about the legality of the next tenant protection proposal being considered by Commissioner Chloe Eudaly.

As first reported by Willamette Week, Eudaly is working on a measure to require landlords to rent to tenants on a first come, first served basis. It is intended prevent landlords from refusing to rent to someone for subjective reasons that have nothing to do with the tenant's qualifications.

However, a similar ordinance in Seattle was declared unconstitutional by King County Superior Court Judge Suzanne Parisien on March 28.

As reported by the Seattle Times, "Seattle's law requiring landlords to choose among qualified applicants on a first-come, first-served basis violates the state constitution."

In her ruling, Parisien said that choosing a tenant "is a fundamental attribute of property ownership."

The Seattle City Council adopted its ordinance in 2016.

Jamey Duhamel, Eudaly's policy advisor working on the proposal, says they are aware of the ruling.

"While Oregon's interpretation of the constitutional takings law is different, there is some concern that it sets a precedent here that is challenging," Duhamel told the Portland Tribune.

Duhamel said that alternatives will be discussed during a series of workshops planned on the proposal in May.

"We are currently workshopping alternatives to first come first serve that may accomplish the same goals, but in reality many landlords do this now anyway as best practice. We will see if something else arises," Duhamel said.

Eudlay successfully pushes a number of tenant protections through the City Council during her first year in office, including requiring landlords to pay relocation costs for tenants subject to no-cause evictions.

You can read the Seattle Times article at tinyurl.com/ydbzukm5.

Willamette Week

In a Reversal, Portland City Council Gives Preliminary Approval to a High-Rise in the Pearl District

*By Rachel Monahan
May 10, 2018*

The development of the Fremont Place Apartments looks like it will proceed.

In a reversal, City Council gave preliminary approval to a 17-story tower in the Pearl District after the developer made changes to create more space for a bike and pedestrian path along the Willamette River.

The fight over the project, known as the Fremont Place Apartments, was among the battles where people who live in tall towers objected to the new buildings going in and blocking their views.

The Pearl District Neighborhood Association appealed to City Council after the project won approval at the city's Design Commission.

The City Council initially sided with the neighborhood association, causing alarm within that the development community that a denial would discourage building in Portland even as the city faces a housing shortfall.

Ultimately, the Council voted to reconsider the project.

Among the key technical changes addressed by the architect since it was last before Council: The pavement of the Willamette River Greenway, as the bike and pedestrian path is called, will be a minimum of 20 feet, instead of 13 feet. And the building will be 43 feet from the seawall.

That was among a few changes the architect made after the building was given a preliminary thumbs-down. The developer also added affordable art studios in the bottom floor.

And after changes to the proposal, the neighborhood association agreed to support the building, as *The Oregonian* reported last week. The developer also agreed to donate \$35,000 the neighborhood association said would go toward the legal costs of the appeal.

That \$35,000 payment to the neighborhood sparked a moment of controversy at Council today—as a critic sounded the alarm that it could set a dangerous precedent.

"I find this egregious," Neilson Abeel, a founder of the Pearl District Neighborhood Association, told Council.

"I think this is a path that everyone in this room will eventually regret. I think it's unethical. It's tantamount to either blackmail, bribery, or hush money. I think the idea that a neighborhood association would approach a developer to be compensated is something this council should take up as a discussion."

The mayor denied knowing that the neighborhood association had been paid.

But that sum was reported by *The Oregonian*, which in turn linked to the announcement posted on the neighborhood association website.

The neighborhood association representative was on hand to testify to the group's change of heart.

The changes "have satisfactorily addressed the concerns of the Pearl District Neighborhood Association," Stan Penkin, president of the neighborhood association, told council.

The vote was 4 to 0. Commissioner Dan Saltzman was absent. The final vote will be May 31.

The Portland Mercury

Earthquake Safety Resolution Vote Postponed Until June

By Kelly Kenoyer

May 10, 2018

Portland City Hall was packed with concerned Portlanders yesterday for a four-hour-long hearing on a resolution determining the fate of 1,650 unreinforced masonry (URM) buildings in Portland. The vote could determine what kinds of retrofits will be required for URMs, which are widely considered the most deadly buildings in an earthquake, but the cost of retrofitting them is exorbitantly high. After 250 people showed up to listen and provide testimony to council, city commissioners decided to push their vote to June 13, to allow time for further deliberation.

Out of the 53 members of public who testified, only three were in favor of mandatory retrofits.

Before hearing testimony, staff spent an hour outlining the dangers posed by URMs—like how they're likely to completely collapse in the event of an earthquake, crushing occupants and dropping bricks onto passersby. Geophysicist Christopher Goldfinger testified that there's a 22 to 26 percent chance of a major seismic event in Portland in the next 50 years.

The resolution in question could mandate that private owners of URMs perform seismic retrofits on their buildings within the next 10 to 15 years. Mayor Ted Wheeler added an amendment that would limit those retrofits to a lower standard—one already required by statute as of 1995 that hasn't been successfully enforced—and lengthens the timeline to 20 years.

Important buildings like fire stations and hospitals, as well as high occupancy buildings like schools and community centers, will be required to retrofit to a very high standard under the new policy—one that commissioners and that the public do not consider controversial. The controversy lies with privately-owned buildings—over 85 percent of URMs in Portland—stems from the extraordinarily high cost of retrofitting a building—upwards of \$50 per square foot for certain buildings. Many building owners pointed out that the costs of retrofitting outweighed the cost of tearing down their building and constructing a new one.

Commissioner Nick Fish also tacked on a few amendments to the resolution, notably removing language around mandating retrofits on privately owned buildings entirely, and instead strengthening an existing 1995 code to close loopholes. The 1995 code required building owners to perform retrofits when replacing 50 percent or more of the roof, but some owners got around it by only replacing 49 percent of the roof at a time, while others were never made aware of that requirement for their building. "When [the code] was adopted in 1995 it might have been doomed from the beginning," he says.

Commissioner Dan Saltzman added his own amendment that would keep the higher standard proposed by staff—a retrofit that requires building owners to bolt masonry walls to the floors in their building, which can help prevent collapse.

"Is our obligation to the mom and pop owner, or to the 600,000 residents of Portland?" he asked.

Richard Larson, one of 53 people who gave testimony at the hearing, said, "It's going to put a burden not only on mom and pop, but everyone who looks at an investment in real estate and livelihood." He added that an unfunded mandate would force a lot of demolitions. "Funding is necessary for a mandate," he said"

Suzie Rice, a condo owner in a URM building, said she wasn't notified of her building's status before moving in—something the resolution proposes be required. She said requiring retrofits could force her and her neighbors to sell.

"Don't require this mandate without full financial support and a plan for displacement," Rice said.

The vast majority of the testimony came from concerned building owners and their allies—historic preservationists, renters wary of being ousted and of raised rents, and admirers of the old brick buildings that many argue define Portland's streets. Only three members of the public testified about the need to retrofit. Alex Roth was one of those three—he told a story about a URM building in California, a beloved local cafe, that collapsed during an earthquake, killing two people. "It disturbs me a lot that the standards discussed are not up to life safety standards," he said.

At one point during the testimony, Commissioner Amanda Fritz asked whether the public would support a bond measure to help fund seismic retrofits of these old buildings, something several public testifiers came back to and voiced support for.

Fish told the Portland Mercury that the biggest concern with this issue is funding.

"The city is going to have to come up with financing other than these tax abatement programs," he says. Fish argues that these programs don't help small business owners who don't have a lot of built up capital. "The city is going to have to step up and put some money on the table. I think Build Portland is one potential source of that funding."

As for the future of the resolution, Fish says he's not sure how he'll vote yet, and he doesn't see a consensus in among his fellow commissioners yet.

"I don't want to adopt a scheme here which ends up making our housing emergency worse and complicating the plan that [Commissioner] Chloe [Eudaly] and I have launched around affordable arts spaces," he said.

He adds, "there was no one that testified last night that wasn't concerned about seismic resiliency. The question is how do we strike the balance between whatever standard we set and how we pay for it."

Council will reconvene on June 13 to vote on the resolution.