

The Oregonian

City Investigating Portland Firm Over Possible \$2 Million Fraud

*By Gordon Friedman
April 19, 2019*

City of Portland officials believe they have uncovered evidence that the owners of a successful painting company fraudulently obtained certification as a woman-run business to win more than \$2 million in city contracts.

Investigators say there are indications that Portland Coatings, ostensibly owned and run by Terezia Nyland, was not independent from a painting company owned by her husband when it landed the contracts. That would disqualify it from being considered woman-run under city and state rules.

City officials are wading into uncharted territory as they investigate Portland Coatings' credentials. They are trying for the first time to exercise oversight powers granted to them by the Oregon Legislature in 2015, but have run into determined resistance from Portland Coatings.

The investigation has been underway for nearly two years but had not attracted attention until now, even as it spilled into Multnomah County Circuit Court, where Terezia and Michael Nyland filed suit to thwart a city subpoena. In the process, the couple cast the city investigation as an abuse of power and a "sexist" ploy against a successful woman entrepreneur.

Investigators' court filings lay bare what they say are signs of fraud pointing to the Nylands. Officials say the duo's attempts to quash the subpoena is part of what they called an effort of "calculated interference" to stymie their search for the truth.

"The city takes serious issue with firms that cheat the system to get ahead," said Lester Spitler, Portland's chief procurement officer, and the overseer of city contracts.

If Portland Coatings is found to have broken the rules, the city will use the case as a reminder to contractors that "the city does pay attention," Spitler said, and will hold violators accountable.

Though not a household name, Portland Coatings has painted some of Oregon's most recognizable real estate: University of Oregon athletic facilities, Portland's ritzy Benson Hotel and even Powell's Books. It has also done many taxpayer-funded jobs across the state.

Court records reviewed by The Oregonian/OregonLive also reveal the city's view that the state agency tasked with certifying woman- and minority-owned businesses, Business Oregon, may be easily fooled by deceptive firms.

Terezia Nyland's attorney, Matthew Colley, issued a statement on her behalf, saying she "flatly denies" wrongdoing, that the city "has unfairly targeted" her and "is abusing its subpoena power."

In a legal declaration, Nyland said insinuations that she "engaged in fraud" or does not "actually run" her company are "hurtful and insulting."

The city's investigators, Simon Whang and Nikesh Patel, declined to comment, citing limits on what they can say about ongoing investigations and litigation.

Whang and Patel work in the City Attorney's Office; their typical repertoire includes legal action against tax scofflaws and defending the city against lawsuits.

Portland's government has had a policy of promoting women- and minority-owned businesses since 1997. Those rules require construction companies awarded government contracts to make an effort to subcontract with certified disadvantaged businesses, of which women-owned companies is one category.

Firms must be independent from other companies and the day-to-day operations must be managed by a woman, person of color or veteran to obtain and keep state certification.

Once approved, certified businesses gain a significant leg up against competitors. Portland Coatings, for example, used the accreditation to land millions of dollars of painting contracts awarded by the city and state of Oregon, according to court filings.

Among its work under scrutiny: A \$506,000 job to paint affordable apartments in the Pearl District, \$347,000 to paint Portland State University's student rec center; \$280,000 to paint the city-funded Grove Hotel renovation, and \$125,000 to work on the Kelly Butte reservoir.

'ILLUSORY DISTINCTION'

The city investigation into the company started in 2017, when a tipster contacted Portland's ombudsman office, which fields complaints about problems within city government.

Whang and Patel were put on the case and issued a subpoena to the Nylands in May 2017. They demanded documents from nine city-funded projects for which Portland Coatings was paid \$2.2 million.

Of particular interest to the investigators: tax records, bank statements and other detailed financial records.

The Nylands initially cooperated, according to court filings, and provided officials with more than 2,500 pages from three projects. But they did not provide the financial records investigators believe would hold conclusive evidence of fraud, if it occurred.

Documents handed over by Nylands have already led investigators to contend in court filings that they have unearthed the initial evidence of fraud. Court papers list what the city says are numerous warning signs.

Washington's business certifier, for example, denied Portland Coatings' application in 2011 and alerted Oregon to the denial. At the time, a Washington official said in an email that Portland Coatings shared employees, office space, and a phone number with Williamsen & Bleid, a painting company owned by Michael Nyland, and implored Oregon to "remove" Portland Coatings' woman-run certification.

Portland officials also say Terezia Nyland gave a "false" address for Portland Coatings that in fact was for a side entrance of a building occupied by Williamsen & Bleid.

Portland Coatings did not have a "true storefront," according to investigators, but instead "used a loading station off the side of Williamsen & Bleid's building as its address to create an illusory distinction between the two companies."

The Nylands' attorney argued the separate address was meant to signal the companies were "distinct entities." The city shot back that the argument the Nylands were separate while sharing employees, a phone number and a location "strains credulity."

Investigators said there are other signs of "fraud and violations" but did not detail those claims in court filings.

COURT BATTLE

The Nylands filed suit to stop the city's subpoena in April 2018. Their attorney, Colley, argued that enough documents had been produced and the investigation was dragging on unfairly. The investigation implied Terezia Nyland could not be a successful businesswoman without breaking the rules, he wrote.

The city said in response that investigators have an obligation to thoroughly examine complaints of fraud. Issuing a subpoena to get financial records is a lawful way to do that, the city argued.

"The city is not motivated by sexism, but to combat sexism by promoting women (and minorities) through a legitimate certified contracts program," investigators wrote in legal filings.

Multnomah County Circuit Judge Eric Bloch ultimately threw out the Nylands' suit. They appealed, and the Oregon Court of Appeals has not yet weighed in.

After Bloch's ruling, the city filed its own suit, asking a judge to force the Nylands to hand over financial records. That suit is pending.

NOT THE FIRST SUCH CASE

The city's court filings also paint Business Oregon's accreditation office as an extremely weak regulator, saying officials have "little confidence" in the state's "ability or willingness to investigate fraud."

It wasn't the first time the city has raised questions about Business Oregon's Certification Office for Business Inclusion and Diversity.

Elkins Masonry Restoration, a certified minority-owned firm, came under city scrutiny in 2013, when officials suspected it was not actually controlled by a person of color. The company had been paid \$88,000 by the city for work on a soup kitchen in Old Town.

Business Oregon threw out a complaint about Elkins from Margie Sollinger, the Portland ombudsman, saying the company broke no rules. Even so, Elkins later settled with the Oregon Department of Justice for a \$15,000 fine and agreed to give up its minority ownership certification.

Business Oregon's failure to regulate Elkins led Sollinger to seek a change in state law allowing municipalities to conduct their own investigations of certified firms. The Legislature adopted the change unanimously, and it's under the new law that the city is investigating Portland Coatings – the first probe of its kind.

The city still contends Business Oregon's performance is "unsatisfactory," according to court records, with the state "refusing" to investigate and decertify companies that abuse the rules.

Carrie Baxandall, director of the state certification office, said her agency is not a regulator but "a positive" that helps businesses get certified even if they don't initially qualify.

"When we have a situation where it appears the business does not qualify, we don't just say, 'Nope you're out of here,'" Baxandall said. "We work with that business to see if it is something that down the road could be certified."

Asked about the alarming 2011 email from Washington's certifier, Baxandall said other states are not authorized to guide Oregon's actions. Similar notifications from other states are routine, she said, and she does not act on them. The one about Portland Coatings did not trigger a state review of the company's certification, she said.

Court records show Business Oregon reviewed Portland Coatings' certification in 2017, after it took over control of Willamsen & Bleid. Baxandall said its accreditation was re-examined after the merger and deemed above board.

Baxandall said her office hired two investigators in 2018 who have been active in monitoring certified businesses. Businesses owners seeking certification cannot easily snow the state, she said. They are interviewed, visited at their place of business and may have tax documents looked over to prove their firms are independent.

Still, Baxandall said she was unsure if any company had been removed for certification fraud. Most voluntarily relinquish their certification if found to be violators, she said.

There is a need for additional oversight of a government program if it "becomes abused," Baxandall said, but "at this point we are not a regulatory agency."

The Portland Tribune

Eudaly Delays Controversial Renter Reforms Vote

*By Jim Redden
April 18, 2019*

Controversial proposal will not return to the City Council on April 25 as originally scheduled.

Commissioner Chloe Eudaly has delayed the City Council's vote on the new renter protections she is proposing.

The council originally took testimony on the proposal on April 3 and 4. It was proposal scheduled to return to the council on Thursday, April 25. But Eudaly's office tells the Portland Tribune it will be delayed two weeks while the commissioner reworks it. No amendments were released.

The proposals would impose numerous new restrictions and requirements on landlords in an effort to make housing available to more residents. Among other things, it would require that landlords justify not renting units to people with criminal convictions in some cases, reduce the monthly income requirement to more than twice the monthly rent, and create rules about when landlords can withhold the return of security deposits.

The proposal is supported by tenant right activists, affordable housing association and some landlords. It is opposed by other landlords and organizations representing them, who say it could discourage the construction of future rental units.

"Our members are grateful that city council is delaying the vote to consider ways to make the ordinance meet everyone's needs," said Deborah Imse, executive director of Multifamily NW, the largest rental housing provider group in Oregon. "Multifamily NW has made a number of suggestions to city commissioners about the rental housing ordinance.

"We share the goal of reducing barriers to housing, but Portland needs to ensure the rules are not so onerous that rental housing providers decide to give up and get out. That will ultimately reduce housing supply in Portland, which will decrease affordability. New rules passed last year in Portland have already decreased supply. There has to be balance."

You can read a previous Portland Tribune story [here](#).

New MAX Line Needs Transit to Marquam Hill

By Bill Gallagher

April 17, 2019

Up to \$20 million budgeted for connection but final cost will probably be higher as the current options show.

If it ever gets built, one of the trickiest tasks facing the Southwest Corridor MAX line proposed on Barbur Boulevard will be providing some kind of connection to Oregon Health & Science University and the various other medical facilities located 300 feet above the route.

The decision is scheduled to be made Wednesday, May 13, by the project steering committee.

The Gibbs Street station is expected to be the second busiest along the proposed route. There are 21 centers and institutions on Marquam Hill, with 11,000 workers at OHSU, 3,000 at the Veterans Administration hospital — and 19,000 daily trips to those facilities. And many of the visitors will have medical and mobility issues.

In the very early estimated budget for the project, a maximum of \$20 million is projected as the cost of building what's called the Marquam Hill Connector. A second tram to the top of Marquam Hill already has been ruled out. TriMet staff has narrowed the original list of nine options down to three: an elevator and a bridge; an elevator and a pedestrian tunnel; and an inclined elevator.

The first option would resemble the elevator at the east end of the tram line in South Waterfront that connects to the Darlene Hooley Pedestrian Bridge over I-5. This is the least expensive option at an estimated cost between \$15 million and \$25 million. The elevator tower would rise 108 feet from the area near Barbur Boulevard and Southwest Gibbs Street. The bridge would be about the length of two city blocks. It would take pedestrians as far as the Terwilliger Boulevard entrance at Southwest Campus Drive. The elevator and bridge could operate 24 hours per day.

Option No. 2 would replace the bridge from the elevator with an enclosed tunnel for light rail passengers on their way to Marquam Hill. This option is estimated to cost anywhere from \$55 million to \$125 million.

Staff cites "the high risk of cost and budget overruns" with this option and raises the possibility of a user fee being charged. The tunnel in this option would be the length of three-and-a-half city blocks. Hours of operation are uncertain.

Option No. 3 would be a single vehicle ride to Terwilliger Boulevard aboard what's called a funicular/inclined elevator. Basically, this would be a relatively short but steep railway from Barbur and Gibbs. This is estimated to cost between \$35 million and \$45 million. Hours of operation would probably be limited and attendants would have to be on hand. A user fee is probable.

"It's pretty complex, like a series of chutes and ladders getting people to where they're going," TriMet's Carol Mayer Reed recently told the steering committee.

Some nearby residents already oppose the third option.

"Inclined elevators are nice but it will cut all the vegetation down on Terwilliger Parkway. That's not what we want. Terwilliger Parkway is a park, it's open space and it's not to be built on," Leslie Pohl-Kosbau said at a TriMet-sponsored open house April 10, a gathering designed to

display the various options. She's a board member with the Hillsdale Neighborhood Association and has been following the planning process closely.

"I'm interested in talking about the elevator and bridge and what that would do. I want to make sure people are safe. I'm not sure about being exposed to the elements because there will be some sick people," Pohl-Kosbau said.

Her preferred method for getting up the hill from the Gibbs Street station is the elevator and enclosed tunnel. "I know it's expensive but in the long run it makes sense. Look what we've done at the zoo — it's paid off," she said.

The entire 12-mile light rail line from Downtown Portland to Tualatin is projected to cost somewhere between \$2.6 billion and \$2.9 billion. Local voters could be asked in November 2020 to approve an increase in property taxes to partially fund it. Half of the remaining funding would be sought from the Federal Transit Administration in Washington, D.C.

Willamette Week

The City of Portland's Hopes For Centennial Mills Development Fall Apart Again

By Nigel Jaquiss

April 18, 2019

For the third time, plans to revive the derelict Willamette River property fail to materialize.

Efforts to redevelop the Centennial Mills site on the bank of the Willamette River in Northwest Portland have once again ended in failure.

On April 17, Kimberly Branam, the executive director of Prosper Portland, the city's economic development agency, informed City Council via email that Lynd Opportunity Partners, which Branam's agency last year selected as the latest developer of the troubled site, was backing out of its deal with the city.

The city acquired the four-acre site in 2000 and hoped to preserve and redevelop what had been an active grain mill and dock since 1910. The property offered an opportunity to extend the riverfront greenway trail for recreational use and to re-claim for mixed commercial uses part of Portland's industrial and shipping heritage.

But the mill's waterfront location, the cost of cleaning up the site and the cost of preserving the decrepit structure defeated two earlier developers, California-based LAB Holdings (2006) and Portland-based Harsch Investment Properties (2013), both of which inked deals to tackle Centennial Mills, only to later walk away.

Now, it's happened a third time.

"Last week Lynd representatives declined to submit a revised letter of interest on the property, citing concerns about their ability to deliver a project that met the city's requirements and expectations," Branam wrote. "Since making their initial offer that formed the basis for their selection, both Lynd's development program and financial terms had changed significantly. Key challenges included:

“Cost of renovation and reuse of the Flour Mill and mixed support for partial remnant concept; Cost of environmental remediation; and Waterfront development constraints and complexity of regulations.”

Prosper Portland documents show the agency has spent at least \$27 million on the site so far, including the initial acquisition and subsequent site work, according to agency documents. Much of that money was spent on demolishing some of the original mill structure in 2015 and 2016.

In her email, Branam told city commissioners the next step will be to reengage with companies that have previously expressed interest in the site.

“Prosper Portland received considerable interest from the development community in its initial solicitation for offers,” Branam said. “We are planning to reengage with the community and potential development partners to determine a path forward and shared vision for success at Centennial Mills.”

Eileen Park, a spokeswoman for Mayor Ted Wheeler said in a statement that the city will continue to pursue a solution for the property.

“We’ve known for a long time that this site presents unique challenges and opportunities,” Park said. “We’re disappointed the Lynd team didn’t see a path forward, but we appreciate their efforts. We remain committed to finding the right partner and delivering a project that increases access to the river and meets the development needs of our growing city.”

The Skanner

Dr. Markisha Smith Steps Into New Role at City

*By Christen McCurdy
April 18, 2019*

In February, Dr. Markisha Smith became Portland’s new director of the City of Portland Office of Equity and Human Rights.

Dr. Smith came to the city from the Oregon Department of Education, where she had served for six years as director of Equity, Diversity, and Inclusion. Prior to that, Dr. Smith served as a professor and director of undergraduate teacher at Warner Pacific College and Western Oregon University, and as an equity trainer and strategic consultant for Metro and the Camas, Washington school district, among other local contracts. Before she got her PhD, she taught high school in English in Texas.

In her new role, Dr. Smith leads a team of 11 staff; the office’s 2018-19 budget is \$1.9 million. The Office of Equity and Human Rights provides education and technical support to city staff and elected officials with the aim of recognizing and removing systemic barriers to just distribution of resources. Last week The Skanner sat down with Dr. Smith to find out how she intends to tackle the job. This interview has been edited for space and clarity.

THE SKANNER NEWS: Tell us a little bit about your background and where you came from and how you came to this work.

MARKISHA SMITH: It’s interesting because I never really thought that I’d be in public service and the government. I taught high school English in Texas and loved that, loved education – loved everything about education and decided to go back to school and work on a doctorate. Then I said, “OK, what do I do with this?” It made sense that I would go into higher ed and so I

started down a track of academia and tenure and all of the things that come with that. I had a couple of appointments in Michigan and then moved here and worked at Western Oregon University and Warner Pacific.

All of a sudden they started doing a lot of equity work at the state and in particular the Department of Education. And I had a colleague at the time that was like, “You need to be here, right, and the work that you’ve been doing in equity throughout your career just is a natural sort of path for you.” Because of the bureaucracy of that, I wasn’t 100 percent sure of it. But once I got there and started talking to the folks at the time that were in leadership and really looking for the vision for what this work would be, it made total sense, and it allowed me to sort of take what is both personal and professional to me and really just marry that together. I was at the state for almost six years before taking this position and I’m excited about it.

TSN: What were some of the things that you were able to accomplish at the state?

MS: I came in right when there was this huge amount of funding that had been put into what they call strategic investments -- in particular, strategic investments for students of color and students who have been traditionally continued to be marginalized in the system. I had the privilege to lead efforts specific to those strategic investments. We did a lot of work for English learning, emergent bilingual students at schools through House Bill 3499 [which directed ODE to create a statewide plan for English language learners]. House Bill 2016 is a plan, an African American Student Success plan. That’s work that continues on.

We were able to help with some professional learning for educators in school and also partnering with community-based organizations to really think about how they were doing in classrooms, doing in schools was or was not culturally responsive in taking into account the students and families that they were serving. So that’s work I’m really proud of. It’s work that is continuing, that was long-term investment.

TSN: You’ve been in this position for two months. What has the job been so far?

MS: The job has been so far, really sort of about learning and not just learning about the work. It’s having conversations and dialogue with my team, by having conversations and dialogue with directors in other bureaus, with our commissioner in charge, Commissioner [Amanda] Fritz.

The other thing that happened or was happening as I stepped in was budget. I really got a sense of where priorities are in the city, and how what our office is doing as we’re starting the work here in our strategic plan here soon, what we do can help support what that looks like in other bureaus, and so just being able to sit and listen and ask questions and be a part of that process was also, really an important orientation for me.

I think the other thing that has been important to me in the last couple of months is really getting to know my team, that we are solid and that we function as a family. It seems sort of touchy feely, but I think it makes sense in the work that we’re doing, and so I want to know who they are and what they’re passionate about, and how can I support that.

TSN: When you’re looking at a bureau’s budget, what are some of the things you look for in terms of looking for equity?

MS: We have a budget equity tool that was developed in place before my time started here. A bureau does their budget, we have our office then assigned to a particular bureau to review that. Then they get that, send that over – folks on my team were able to look at it, I was able to go over it and look at it and make notes. Then they provide some feedback that we then share with

the bureau director, and sometimes they've been able to tweak and sort of call out more explicitly some of the equity work that's happening within their bureaus based on that feedback.

TSN: Over the years, this office has played different roles over the years and has served different functions for this city. What's your vision moving forward?

MS: We are going to embark on our strategic planning process here in about a month and a half or so. One of the things that based on even during my interview process and just sort of talking with folks was really getting clear about how our office functions internally and externally, and some strong opinions about that only being internal and some strong opinions about that being heavily external.

My thought, moving forward, is that they don't have to be mutually exclusive. I think that we can do both, and we can do both really well with a clear mission and vision which our strategic plan will get us to. We want to continue to support bureaus and our equity managers that are in those bureaus and the work that they're doing to provide tools and access to information and resources. We're obviously going to be thinking about how to expand the professional development that we offer to city employees in conjunction with the Bureau of Human Resources and what they're doing. That's one body of work.

We also have to think about how we're engaging in community. We have the privilege of facilitating some community groups and so we want to hold that dear.

I think there might be room to even think about, what does that look like in expanding the conversation and where are some of the community voices we haven't heard that haven't maybe been at the table for a really long time that need to be there, and we need to be intentional about that? And how can we demonstrate to them and hold ourselves accountable for the things that we say that we're going to follow up on in the community? I think that's really important.

TSN: What community groups are you engaged with?

MS: So we have our Human Rights Commission, which is made up of a variety of folks. Then we also have a disability commission that is going through a transition. We have our Black Male Achievement. And PCCEP, while technically out of the mayor's office, is another group that we've got administrative connection to.

TSN: What do you do when you're not at work?

MS: (Laughs) What I do when I'm not at work is I have an eight-year-old and a three-year-old, and so much of my time is, as it should be, wrapped up in who they are and birthday parties and etcetera. My daughter runs track – she's a state champion, by the way, at the tender age of eight.

I'm realizing there are some things that I'm really passionate about that I need to sort of revive in myself. I love art. I'm not good at it but I like looking at it and going to art galleries. I love museums. I rediscovered my love music, on the way to work through Google Play. I love poetry, and I actually write poetry. That's something I've forgotten. It sort of got buried down in the middle of everything, so things are sort of coming back for me. And that's exciting. And I want to really have some opportunity to do some volunteering. That's a thing that I, pre-child, was able to do with more nimbleness. So the next time you talk to me, I'll be able to tell you specifically one of these that I'm doing for self-care outside of this.

Portland Observer

Emotions Run High

By Danny Peterson

April 17, 2019

Chief joins screening of ‘The Hate You Give’

Emotions ran high during a discussion with Portland Police Chief Danielle Outlaw, actor Russell Hornsby, and community members of color at Vancouver Avenue First Baptist Church Friday, following a screening of the critically acclaimed 2018 film “The Hate You Give,” which Hornsby co-starred in, and delves deep into themes of officer-involved shooting deaths of black Americans, the Black Lives Matter movement, and the sometimes tense relationship between police and communities of color.

Based on the 2017 young adult novel of the same name, “The Hate You Give” centers on a black youth who must stand up for what’s right after she witnesses a childhood friend who is shot and killed by a police officer after a hairbrush he had is mistaken for a weapon.

Speaking about the worry she had about her own eldest child once he got his drivers’ license and became more independent, Outlaw recalled speaking with him about the danger he faced in navigating a world wrought with racism and discrimination.

“We still have to recognize and acknowledge that there’s bias in the world and we’re not always aware of it...we know as Portland Police officers that anything that happens anywhere else in this country impacts us here, in the winds of how we do our jobs here,” Chief Outlaw said.

Hornsby and Outlaw are longtime friends, having gone to high school together back in Oakland, Calif.