

The Oregonian

Leader of community oversight group: Portland police are ‘a ways off’ from ‘substantial compliance’ with DOJ settlement

*By Maxine Bernstein
October 22, 2019*

Lakayana Drury, co-chair of a community group charged with overseeing federal-mandated Portland police reforms, rejected a report by a city-hired academic who found Portland in “substantial compliance” with the entire U.S. Department of Justice settlement.

He called the findings “premature,” and said he believes the city “is still a ways off,” from meeting all the requirements of the agreement.

But Drury could not convince the 12-member citizen committee he leads to support a resolution that would have challenged the “substantial compliance” findings and required Portland’s police chief and mayor to come up with a more meaningful way to measure the impact of reforms.

The resolution failed Tuesday night, with five members voting against it, four in support and three abstaining. Fellow co-chair Lakeesha Dumas abstained, saying she didn’t feel she had enough information.

A judge approved the settlement in 2014, after a federal Justice investigation found police engaged in excessive force against people with mental illness and fired multiple cycles of Taser gun shocks unnecessarily. The settlement’s 190 paragraphs required changes to the Police Bureau’s use of force policy, training, response to people in mental health crisis and community oversight.

Drury questioned how city-hired overseer Dennis Rosenbaum came to his conclusions, when police are continuing to fatally shoot people with mental illness, a problem that prompted the U.S. Department of Justice to investigate Portland police in 2012.

“We have a duty to represent the community,” Drury said. While the bureau has changed its policies on use of force and adopted new training, “is it actually leading to officers using less force?”

“I 100 % agree that PPB has made tremendous strides in the five years that you have worked with them, but there’s still a lot of progress to be made,” he said. “The settlement agreement was designed to reassure the public that changes made in Portland will be sustained. Changes have been made. I don’t know (that) much of the public feels reassured, at this point. So, I believe that...substantial compliance is still a ways off.”

Other community members shared Drury’s concerns.

“It seems like a rush to the finish line, and that’s not fair to our citizens,” said Jan Friedman, an attorney with Disability Rights Oregon, who sits on the Police Bureau’s Behavioral Health Unit Advisory Council, a group working to improve and reduce police encounters with people in mental health crisis.

Rosenbaum said he liked the instinct of Drury and others to hold police accountable, but he urged the Portland Committee on Community-Engaged Policing not to dismiss his findings.

“Pushing back on compliance when we’ve already done this five years of work is not really the best way to go,” he said.

Rosenbaum defended his team’s work.

“I’m not a box checker,” he said. “We held this city’s feet to the fire.”

Rosenbaum argued that the bureau has adopted new de-escalation and procedural justice training and use of force policies. He called the bureau’s crisis intervention training and use of even more specialized enhanced crisis intervention officers a “model” for other cities. The bureau has demonstrated it’s a “learning organization,” with supervisors reviewing officers’ use of force, inspectors conducting audits of police force, police brass tracking complaints against officers and internal affairs conducting more timely investigations into alleged police misconduct, he said. He also called the community oversight group a “legitimate body” for community engagement.

Driven by the settlement, the bureau has created “a system for self-government and a system for self-improvement,” added Rosenbaum’s partner Tom Christoff.

Committee member Elliott Young, though, said the policy, training and auditing changes haven’t produced the desired outcomes: fewer police fatal shootings of people with mental illness or decreases in use of force against people of color or the homeless. Bureau statistics, he said, suggested the agreement isn’t working.

“The outcomes were not a main focus of the settlement agreement,” Rosenbaum responded, adding that the pact doesn’t even mention the homeless. “It’s almost too soon, I would argue, too soon to expect the outcomes.”

If it’s too soon to expect improved outcomes, then it’s also too soon to say the city has substantially complied with the settlement, Young said.

Committee member Steven Trujillo voted against the resolution, finding that the city has adhered to the language of the settlement provisions. Committee member Sam Sachs also voted against it, convinced the bureau has complied with the agreement. Sachs later announced his resignation from the group, and urged committee members to engage with police and establish better relationships.

U.S. District Judge Michael H. Simon will make the final ruling when all parties to the case return to his court Feb. 25. The court retains oversight until a judge finds that the city has substantially complied with the agreement for one year.

“PPB is a better organization than it was five years ago but they can also fall back, so you have to keep an eye on them,” Rosenbaum said. “At some point, we have to pass the baton to you guys and the community. It’s time for a community voice to take the lead and not outsiders.”

Though the resolution challenging Rosenbaum’s findings failed, the community group agreed that one significant part of the settlement has not been addressed: creation of one or more walk-in, or drop-off centers in Portland for people in crisis or suffering addictions.

While Rosenbaum’s team found that the Unity Behavioral Health Center, a psychiatric ER that opened in January 2017, fulfilled that requirement, the community committee disagreed. It urged Rosenbaum to re-evaluate his finding.

Meredith Mathis, who sits on the group’s subcommittee for people with mental illness, said the Unity Center is not a walk-in center, but a hospital-level psychiatric ER that’s been plagued with problems, including deaths of patients, arrests of patients and staff complaints.

Rosenbaum and City Attorney Tracy Reeve said the settlement required community care organizations to establish such mental health drop-off centers, and the Police Bureau has been doing what it could to establish partnerships with outside stakeholders.

“But nothing in the settlement agreement obligates the city to fund mental health” centers, Reeve said. That’s the responsibility of the county, state and community care organizations, she said.

Another resolution considered Tuesday night, which would have recommended the city pay 25 percent of the operating costs for a new county mental health resource walk-in center that’s being planned, also failed.

Portland denies Zenith Energy request to add pipes at its Willamette River oil terminal

*By Betsy Hammond
October 22, 2019*

The city of Portland has rejected a request by Zenith Energy to add three underground pipes at its Northwest Portland oil terminal along the Willamette River.

Zenith told city officials it would promise not to pass any fossil fuels through the pipes, only biofuels and a low-toxin chemical used to make polyurethane. And it said the city would be welcome to inspect the pipes to ensure that was the case.

But Zenith acknowledged in its application to the city’s franchise office, which controls what is put beneath city streets, that the new pipes under Northwest Front Avenue would be physically capable of transporting fossil fuels.

So the city’s Office for Community Technology turned Zenith down, according to a letter it sent a Zenith official and a lawyer for the company Friday. The decision was first reported by Willamette Week.

In its letter from interim Community Technology Director Elizabeth Perez, the city cited three reasons for its decision. First, the city in 2015 adopted a policy opposing expansion of infrastructure for transporting or storing fossil fuels in or through Portland or using adjacent waterways. Second, the Community Technology Office has only 10 employees, none of whom are trained in inspecting oil pipelines, so the city can’t do the testing to ensure Zenith would keep its promise. Lastly, Zenith is already months late making required payments and reports to the city, so the city doesn’t feel it can count on the company to self-report.

A Zenith spokesman expressed the company’s disappointment with the decision. The firm has been saying for many months that it intends to switch the focus at its Portland terminal to biofuels and other renewable chemicals.

“Zenith Energy is disappointed that the Office for Community Technology has denied its request for approval to build renewable fuel infrastructure in Portland, which was proposed in furtherance of the City of Portland’s stated goals,” the company said in a statement.

The company needed the pipes to expand its role in Portland’s green energy sector, something the city has stated as a goal, said spokesman Daniel Wattenberger.

The company paid its overdue franchise fees on Monday, “when it was first made aware of the outstanding fee,” Zenith said in its statement.

Zenith has previously raised controversy in Portland because tar sands crude oil from Canada is transported by train through Portland neighborhoods to the firm's terminal on the Willamette. There it was unloaded, stored and loaded onto ships for export, primarily to other West Coast ports.

The firm didn't comply with its promise to Oregon safety regulators to conduct a safety drill using tar sands oil, The Oregonian/OregonLive reported in April.

In her letter to Zenith last week, Perez wrote, "Zenith is more than five months overdue on its May 15, 2019, payment of franchise fees for the 2018 calendar year. Zenith has also failed to file the written report calculating those fees required to be submitted with its payment. Paying franchise fees – and filing a report calculating those fees – are important terms under the Franchise Agreement. Zenith's failure to meet these existing contractual commitments makes (the community technology office) unwilling to rely on ... additional commitments ... If (the city) cannot rely on Zenith to make its franchise fee payment on time and file the required report on time, then (it) also cannot rely on Zenith's promise in its proposed condition to file annual reports about the products transported in the pipes."

In a statement, Mayor Ted Wheeler said he supports the decision to deny Zenith the pipes. "I am deeply dedicated to protecting our environment," he said. "Portland's commitment to be a climate leader nationally and globally requires a rapid transition away from fossil fuels to cleaner, renewable fuels and electrification of our transportation sector."

Portland to consider buying \$800,000 Gresham-area home for water plant project

*By Everton Bailey
October 22, 2019*

The Portland City Council is scheduled to vote Wednesday whether to buy a large \$800,000 house east of Gresham that sits across the street from where Portland plans to build a federally mandated water treatment plant.

City Water Bureau officials aren't sure what they'll do with the house, which sits on nearly two acres, because designs for the planned filtration facility and the routes for pipes connecting it to customers haven't been finalized.

The city wants to buy the property because its location could provide a possible starting pipeline route from the plant to Southeast Dodge Park Boulevard, which lies on the other side of the nearly 4,000 square-foot home, said Commissioner Amanda Fritz, who oversees the Portland Water Bureau.

The 1.87-acre property at 35319 SE Carpenter Lane could also provide construction access from Dodge Park Boulevard to the plant, which would sit on 95 acres that the city has owned since the 1970s and currently leases to a tree nursery. Both options would require taking down the house, Fritz said. If neither option is feasible and no other plant use is identified, Fritz said, the home could stay standing and later be resold by the city.

The Multnomah County assessor's office estimates the land is worth about \$265,000 and the high-end 20-year-old home, garage and other improvements about \$500,000.

Without the Carpenter Lane property, Fritz said, the city may have to condemn it or neighboring land through eminent domain to get the same access. If the City Council agrees to buy the property, the city could decide to rent it out before plant construction begins, she said.

“We know we need to get to Dodge Park Boulevard, that this came on the market, that there aren’t any other options that we currently have and that’s why we’re buying that property,” Fritz said. “It’s a reasonable price for 1.8 acres. There are others that have much less acreage and some vacant lots that are going that are going for that price.”

The six-bedroom, four-bathroom house and separate garage went on the market in March for \$799,900 and the city reached an agreement to buy the house for \$800,000 in June, city records show. The city is estimated to also pay around 3% in closing costs if the council approves the purchase.

The city has already spent \$30,000 in a non-refundable cash deposit to secure the property.

City planners hope to lay most of the pipes carrying treated water into Portland in rights of way under public roads. According to a Water Bureau map of possible filtration plant pipelines, four of five proposed routes from the facility head north to Dodge Park Boulevard. The fifth heads northwest from the plant and runs near Southeast Lusted Road.

The last time the Water Bureau spent nearly \$1 million on a house was in 2009 to build a three-bedroom home in east Portland for about \$940,000 as a showcase for conservation. The city later sold the house for \$395,000.

A judge ruled in 2017 that Portland was wrong to have spent water and sewer ratepayer fees on that house and six other city projects that didn’t directly benefit water customers.

The money from the Gresham-area property purchase would come from the water bureau’s 2019-20 fiscal year budget as part of the filtration plant project.

The council voted in 2017 to build the water filtration plant after the Oregon Health Authority revoked Portland’s longtime exemption from rules requiring drinking water to be treated because the parasite cryptosporidium was detected multiple times in its untreated Bull Run water supply.

In order to comply with state and federal water quality rules, the water bureau has said it has to build a water filtration plant by Sept. 30, 2027. The project is currently in the planning phase with design work planned to begin in 2020 and last until 2022. The next five years are planned for constructing the plant and getting it up and running.

Bureau officials estimated in 2017 the plant would cost around \$500 million. The bureau told the council in September that the cost will likely be closer to \$850 million.

Several residents in the area of the planned facility, some of whom live in Clackamas County, oppose the construction due to concerns of the construction impacts, disruption of their rural lifestyle and the possibility for decreased property values. There are 24 property owners adjacent to the water plant site.

Mike Kost, who lives next door to the Carpenter Road property for sale said he was shocked when a realtor confirmed to him that Portland was in the running to buy the home. He said he assumed another family would move in. He said he’s wary about the home he and his wife have owned since the late 90s, which would be sandwiched between Portland owned properties.

“They said this was an opportunity that arose and they took it,” Kost said. “We’ve heard everything from them tearing the house down for the pipes to go through to them using the house for office space. It seems like there are other things they could spend close to \$1 million on.”

The Portland Tribune

Portland blocks Zenith's plans for new fossil fuel pipeline

*By Zane Sparling
October 22, 2019*

Office from Community Technology, controlled by Mayor Ted Wheeler, denied an application from Zenith Terminals.

Portland has blocked a proposed expansion of pipeline at a controversial fossil fuel storage facility in Northwest Portland.

On Friday, Oct. 18, an office controlled by Portland Mayor Ted Wheeler officially rejected the application to build three new underground pipes linking the Zenith Energy site on Front Avenue with Willamette River shipping terminals across the street.

"I am deeply dedicated to protecting our environment," Wheeler said in a statement.

Zenith project manager Dirk Kramer had promised the pipes would exclusively be used to export biodiesel and methylene diphenyl diisocyanate — a chemical primarily used to manufacture polyurethane insulation — not tar sands oil, which arrives at the site via tanker trains.

But city officials nixed the idea, saying the city's regulatory agency for utilities, the Office for Community Technology, didn't have enough staff or experience to handle oversight. The office has 10 full-time employees, and fewer than six are tasked with monitoring every utility in Portland.

"OCT does not perform periodic field inspections on any other franchisee's infrastructure, and OCT is not willing to depart from precedent and take on these additional unique responsibilities required by Zenith's proposed condition," according to a letter from the office's interim director, Elisabeth Perez, to Zenith.

Perez additionally noted that Zenith missed recent deadlines with the city, saying the global firm blew past its May 15 deadline for paying last year's franchise fees, and hasn't even submitted the written report calculating those fees yet.

A representative for Zenith said the company was "disappointed" by the decision, and says it paid the outstanding fees on Oct. 21. Environmental groups, who blockaded the rails leading to the facility multiples times in April, trumpeted the decision.

"Zenith's new pipes could have freed up existing infrastructure to ship even more tar sands," said Nicholas Caleb, staff attorney at the Center for Sustainable Economy.

"It's encouraging to see the city taking the obvious actions against this reckless company," added Portland Youth Climate Council member Ella Shriner. "The next step is shutting down Zenith's operations completely."

The city's letter cites a policy blocking the expansion of fossil fuel infrastructure, which was adopted by vote in 2015. The rule was actually remanded after being challenged in court, but a spokesman for the Bureau of Development Services says it's "still intact."

"It's still on record," said bureau spokesman Alex Cousins. "The city's position has not evolved from that."

Using old permits, Zenith constructed several new offloading platform in July, though the company told the Tribune the building shouldn't count as an expansion, since its storage capacity on site didn't change. Earlier this fall, City Hall approved \$50,000 for a study of the costs and risks associated with fossil fuel infrastructure in Portland.

Willamette Week

The City Council Plans to Review an Exemption to Portland's Tree Code—But Too Late to Save Trees at the Star-Crossed Wapato Jail

*By Nigel Jaquiss
October 23, 2019*

Most industrial and commercial properties are exempt from the rules. Developers of property with such zoning can clear cut any trees.

As soon as next month, the Portland City Council will consider closing a redwood-sized loophole in the city's tree code.

It won't be soon enough to stop Jordan Schnitzer from chopping down hundreds or even thousands of trees that surround one of the city's most controversial properties: the vacant Wapato Jail.

Currently, developers face restrictions when they want to cut down trees on residential lots. Broadly speaking, they must preserve at least a third of existing trees, with particular emphasis on trees 36 inches or more in diameter.

But most industrial and commercial properties are exempt from such rules. Developers of property with such zoning can clear cut any trees. It's a loophole environmentalists have railed against since the city wrote its tree code in 2011.

The proposal to close the industrial-commercial loophole struck like a lightning bolt at the Sept. 24 meeting of the city's Planning and Sustainability Commission.

At that meeting, Oriana Magnera—a member of the commission who also works for Verde, a social justice nonprofit in Cully—surprised her colleagues by pushing successfully to recommend the City Council end the exemption.

"Industrial lands are often located near people of color and low-income people," Magnera tells WW. "We value trees for those communities perhaps most of all."

The exemption from the tree code for industrial and commercial development is part of the backstory in the ongoing saga of the never-used Wapato Jail, which Multnomah County sold last year to Jordan Schnitzer, owner and CEO of Harsch Investment Properties.

Schnitzer has been pushing elected officials to help him convert Wapato into a homeless shelter. At the same time, he's also pursued a backup plan: demolition of the jail and redevelopment of the 18-acre property into a warehouse facility, like surrounding parcels in North Portland's sprawling Rivergate Industrial District.

WW has learned those demolition plans would wipe out trees that surround most of the property, to facilitate the flow of trucks around the perimeter of the planned warehouse complex.

The trees at Wapato have a history. In the early 2000s, as Multnomah County worked to develop Wapato, it signed a good neighbor agreement that included preserving a 3,200-foot-long buffer of trees along the property's perimeter.

Wapato sits on a peninsula surrounded by wetlands connected to Smith and Bybee lakes. The purpose of the buffer, says Troy Clark, president and founder of the nonprofit Friends of Smith and Bybee Lakes, was partly to shield the jail from view and partly to augment wildlife habitat.

Although the jail never opened, the plantings thrived, forming a dense barrier of evergreen and deciduous trees. Today, it's nearly impossible to see the forlorn jail, except from a fenced parking lot on the property's north side.

Environmental advocates, such as Bob Sallinger of the Portland Audubon Society, have long argued that exempting industrial and commercial lands leads to "heat islands" in the city and speeds the destruction of wildlife habitat.

"A lot of our industrial sites are in really important ecological areas," Sallinger says. "Portland has ambitious goals for tree cover—and this loophole that makes no sense."

The city's current tree protections are due to expire Dec. 31. The Planning and Sustainability Commission was working on a proposal to ask the City Council for a two-year extension Sept. 24, when Magnera abruptly suggested axing the industrial-commercial exemption as well.

Her move caught big industrial landowners unaware.

Corky Collier, executive director the Columbia Corridor Association, a business group that includes much of the city's heavy industry, happened to be at the meeting on an unrelated matter.

"There was no public notice of this idea," Collier says, "so nobody who might have objected was there. Nobody saw it coming."

The proposal next heads to the City Council for a vote.

City Commissioner Amanda Fritz, who oversaw implementation of the tree code, is likely to vote yes. She says the city has long intended to revisit the industrial-commercial exemption and the need to do so is urgent. "Our planet is on fire," Fritz says. "And we need to be acting that way."

But if the city does remove the exemption, it won't save the trees at Wapato.

That's because Schnitzer's company applied for a demolition permit last year and renewed it Sept. 23. He and his team attended a recent meeting of Metro's Smith and Bybee Lakes Advisory Committee and showed plans for the Wapato property—minus the jail and much of its 40-foot buffer.

In a Sept. 24 letter, Clark urged Schnitzer to preserve as many of the existing trees as possible, while knowing the exemption means he doesn't have to preserve a single one.

"We are completely at his mercy," Clark says. "Completely."

Schnitzer, whose company owns millions of square feet of industrial and commercial property across the West, says removing the industrial-commercial exemption would be a "terrible mistake" that would increase development costs, reduce flexibility and hurt job creation.

As for Wapato, Schnitzer says when he demolishes the structure, probably later this month, he hopes to preserve or replace one-third of the existing trees on the property. He'll do so voluntarily. He also plans to use glass and paint that will blend in with the surrounding natural area.

"Let's focus on the animals and biodiversity," Schnitzer says. "All of us are environmentalists in this state."

The Portland Mercury

City Council Poised to Overturn Controversial Earthquake-Unsafe Building Sign Policy

*By Blair Stenvick
October 23, 2019*

A controversial earthquake safety ordinance that pitted local building owners against Portland City Council will likely be overturned at Wednesday's council meeting.

The ordinance on the chopping block requires that owners of the city's 1,600 unreinforced masonry buildings (URMs)—old brick buildings likely to collapse during an earthquake—place a sign on their buildings notifying the public of this danger, and include that warning in new tenant rental agreements. Since passing a City Council vote in October 2018, the ordinance drew sharp criticism from a coalition that included the Portland NAACP chapter, Portland Tenants United, Music Portland, and others. The coalition argued that the placarding ordinance placed an unfair burden on small business owners and historically Black churches who couldn't afford the costly price of reinforcing their buildings to make them withstand an earthquake. They also feared the placard could possibly affect their ability to secure a loan or property insurance.

Another group of URM building owners sued the city earlier this year on the grounds that the ordinance violated their first amendment rights. In May, a judge sided with the building owners, placing an indefinite block on the policy. This came after a February 2019 council vote to suspend enforcement of the ordinance until November 2020.

Now, City Council is poised to overturn the ordinance outright, and instead convene two new workgroups that will explore incentive-based, rather than punitive, ways to encourage building owners to upgrade their URMs. Dan Douthit, a spokesperson for the Portland Bureau of Emergency Management (PBEM), said the building owners' lawsuit is "a big reason" for the city's course change on URMs.

"And also, we want to focus attention on figuring out the next steps for how we get these buildings retrofitted," Douthit added. "By resolving this, we can put all our efforts into coming up with financial incentives and building on the work done in previous committees."

The two workgroups are comprised of 27 members of the public who volunteered to join. One group will consider solutions for for-profit businesses and the other will explore options for non-profits, including churches. Douthit said the work groups will focus on ways to fund voluntary retrofitting for all privately-owned URMs, such as offering tax breaks or starting a city-funded loan program.

The city still plans to require all publicly owned URMs, like schools and community centers, to undergo mandatory seismic retrofits.

"What we do know," Douthit said, "is that a one-size-fits-all solution isn't going to work."

Jim Brunberg, the owner of Mississippi Studios, was among the coalition that opposed the placarding ordinance. (Mississippi Studios is not a URM, but Brunberg said he is an "advocate" involved on behalf of other business owners.) Brunberg said that while he hasn't had a chance to

fully review the city's new proposed policy, he does support overturning the placarding ordinance.

“[The placarding ordinance] was entirely punitive, debilitating and destructive for most Portland unreinforced masonry buildings,” Brunberg wrote in an email to the Mercury. “I applaud any efforts the city takes to incentivize building owners into upgrading the safety of their buildings in any way.”

Commissioner Jo Ann Hardesty, the commissioner in charge of PBEM, said she is “excited to see what suggestions this new unreinforced masonry building committee comes up with” in a statement shared with the Mercury.

“As a long-time organizer and community leader, what I know is that all process is improved by listening to more voices,” Hardesty said. “I am committed to continuing the conversation to improve Portland's resilience in the event a disaster strikes.”

City of Portland Rejects Zenith's Oil Terminal Expansion Request

*By Blair Stenvick
October 22, 2019*

For the first time, the city of Portland is formally pushing back against Zenith Energy, the owner of an oil train terminal in Northwest Portland that has drawn the recent ire of local environmental activists. Last week, the city denied Zenith's proposal to build three new underground pipes to expand the company's ability to transport fossil fuel through Portland.

Dan Serres, the conservation director for the environmental protection organization Columbia Riverkeeper, told the Mercury that OCT's decision could “really mark a turning point” in how the city interacts with Zenith.

“It's really the first time the city has said ‘no’ to Zenith,” Serres said. He added that the permit denial shows Zenith is “not going to be able to simply expand and expand.”

The permit denial comes from the Office of Community Technology (OCT), the office responsible for overseeing the city's franchise agreements, which state the land use and right-of-way terms between the city and different utility organizations. The denial was first reported by Willamette Week.

This may be the city's first official action taken to oppose Zenith, but that doesn't mean city leaders have been rolling out the red carpet for the Houston-based energy company before now. Since it was revealed in February that Zenith was moving to expand its crude oil train terminal on NW Front, Mayor Ted Wheeler and other city commissioners have expressed their personal opposition to Zenith's presence in Portland, but said they are unsure what can be legally done about it. Portland City Council passed a ban on new infrastructure to transport fossil fuels (like crude oil) in 2016—but because Zenith had obtained a permit for expansion before that ban was passed, its plans were grandfathered in under the old standards.

The need to eradicate Zenith has become a recent rallying cry for different environmental groups in Portland, including the youth behind September's climate strike.

The city has reportedly been exploring its options for resisting Zenith, and the company's request to build three new underground pipes—a request that was not a part of Zenith's original expansion plans—appears to have given the city legitimate legal grounds to push back.

“Without having a better sense of how Zenith operates its whole facility, it seems extremely likely that what they're doing is just adding more pipe capacity as a whole.”

In an October 18 letter notifying Zenith of its permit denial, OCT Interim Director Elisabeth Perez laid out several reasons for the city's decision. One of them was that Zenith's request went outside of the scope of the original franchise agreement, allowing Portland's 2016 fossil fuel infrastructure ban to kick in.

In its permit request, Zenith told OCT that the pipes would be used to transport a potentially harmful chemical known as MDI and biodiesel. That would mean the pipes technically wouldn't be used to transport fossil fuel, but Serres said the move would likely free up Zenith's existing infrastructure to take on more fossil fuel. And considering Zenith has been misleading in past communications with the city, he said, Portland shouldn't take its word about what the pipes will be used for.

“Without having a better sense of how Zenith operates its whole facility, it seems extremely likely that what they're doing is just adding more pipe capacity as a whole,” Serres said.

Perhaps recognizing that the city would be inherently skeptical of any new permit requests, Zenith offered to “allow City inspectors access to the facility at all reasonable times” in its permit request. Perez rejected that premise, writing that “OCT is not prepared or equipped to take on the monitoring and inspection responsibilities proposed by Zenith's condition.”

Perez also pointed out that Zenith has not held up the terms of its existing agreement with the city.

“Zenith is more than five months overdue on its May 15, 2019, payment of franchise fees for the 2018 calendar year,” Perez wrote. “Zenith has also failed to file the written report calculating those fees required to be submitted with its payment. ... If OCT cannot rely on Zenith to make its franchise fee payment on time, and file the required report on time, then OCT also cannot rely on Zenith's promise in its proposed condition to file annual reports about the products transported in the pipes.”

In a Tuesday press release, Wheeler said he supported OCT's permit denial.

“Portland's commitment to be a climate leader nationally and globally requires a rapid transition away from fossil fuels to cleaner, renewable fuels and electrification of our transportation sector,” Wheeler said in the release.

"This is only possible because of the months and months of labor that local activists put in," tweeted Sunrise PDX, a local youth environmental group that helped organize the Portland climate strike, about the permit denial. "A huge thank you to everyone involved in this fight.

What comes next is unclear. Zenith could appeal OCT's decision before City Council, or take legal action against the city. Serres said that because Portland is geographically situated to be the most convenient route for transporting crude oil through the Pacific Northwest, he doesn't expect Zenith to stop trying to expand its facilities. And despite recent state legislative progress on the issue, Serres said Oregon still has weaker environmental protections around oil trains than neighboring Washington and California, giving Zenith another reason to continue holding on to its Portland facility.

While this permit denial marks an important milestone in the city's relationship with Zenith, environmental groups hope it's just the beginning of a broader crackdown.

"We would love to see the city take a much more comprehensive approach trying to ratchet [Zenith] back," Serres said. "[But] the city has been moving pretty carefully ... it's not easy to unravel what has been previously authorized."

How Does Community Policing Fit into a Changing Portland?

*By Alex Zielinski
October 10, 2019*

It's dusk on a sleepy Sunday in North Portland, and the afternoon rain has finally ceded to a blushing sunset. Outside a two-story apartment complex, the calm is interrupted by three sharp knocks on a wooden door and an authoritative yell: "Portland police!"

It's a jarring thing for anyone to hear—especially those living in this area, where a history of violent crime and over-policing has trampled residents' trust of police. But if the middle-aged woman who swings open her door is wary of the two uniformed officers on her porch, she hides it well.

"Oh, come inside! I appreciate you coming by," says Susan, who's dressed in pajamas and clutching a cell phone. (The Mercury is using a pseudonym for Susan to respect her privacy.)

Officer Joshua Silverman pulls out a notebook as he steps into her apartment. "I hear you've received a threat," he says, making space in the small foyer for his partner, Officer Joana Ortiz. "Is this the same guy as before?" Silverman asks, reading off a man's name from his notes.

"Yeah, he left me a message. He keeps giving me problems," says Susan, scrolling through her phone to find an audio recording. "I can't live like this."

In a voicemail message Susan plays for the officers, an angry man says he's going to kill her. Susan identifies him as a former boyfriend who, thanks to a restraining order, is legally barred from contacting her.

Silverman takes notes as he asks Susan questions for his report. He tucks his notebook in his front pocket and tells her that if she or anyone else sees the man, they should call 911 and tell the operator where he is.

"That's all you need to do. I'm so sorry this is happening to you," he says with a deep sigh. "It's awful."

Ortiz tells Susan to call if she has any other concerns. "We're always around," Ortiz says.

Susan hugs both officers before they leave, laughing with relief. "Thank you so much," she says. "I feel a little better now."

According to city leaders, this recent interaction is a snapshot of community policing at its best.

Ortiz and Silverman are half of the New Columbia Policing Team, a four-person task force assigned to respond to residents of New Columbia—an 82-acre community in Portland's Portsmouth neighborhood, comprised of publicly subsidized apartments as well as market-rate homes. Of New Columbia's 1,847 residents, 47 percent are African American and 26 percent are Latinx, making white residents, at 23 percent, the minority.

The Portland Police Bureau (PPB) created the New Columbia Policing Team in 2012 in an effort to chip away at the years of distrust built between New Columbia residents and law enforcement. By following up with crime victims like Susan, resolving small problems for residents, or just sitting and listening to people's concerns, the four officers have incrementally started to shift the community's perspective on police.

In the process, the team has become a model for PPB administrators and city leaders when considering the future of Portland policing.

"This is the way we should be doing policing all the way across the city," said Mayor Ted Wheeler at an August 28 meeting, where City Council voted to extend the New Columbia Policing Team contract until 2022.

The program even won the praise of council's most vociferous PPB critic, Commissioner Jo Ann Hardesty.

"It feels really hard for me to say really great things about the police," Hardesty said at the August meeting. "But when you do good things, I want to applaud good things that you do."

In a city with a long history of police misconduct, New Columbia's community policing program exemplifies the kind of law enforcement the city wants to invest in.

But according to PPB, budget constraints—some of them tied to the public's resistance to funding the police bureau—have kept this kind of hands-on work from becoming more common.

At the same time, the city is reevaluating the role of police officers in Portland. Some see programs like New Columbia as merely another way for law enforcement to keep tabs on low-income communities of color, by allowing police to maintain positions of power in a community that's working to de-emphasize its reliance on cops.

Local groups like Care Not Cops, Don't Shoot PDX, and Portland Copwatch have remained critical of community policing, arguing that it's merely a friendly façade that enables profiling and discrimination.

Others, including members of City Council, have suggested sending professional mediators, social workers, or health providers to respond to the kind of low-level issues that New Columbia officers focus on.

As the city reconsiders the responsibilities of a Portland police officer, it's unclear what the future holds for projects like the New Columbia Policing Team.

"Community policing" emerged as a buzzword in the 1980s and '90s, after decades of heavy-handed policing of minority populations left some of the country's most crime-addled neighborhoods deeply distrustful of law enforcement. The idea—encouraged through a well-financed Clinton Administration grant program—was for police officers to build relationships with the communities they patrolled, gaining local perspectives on how to prevent crime rather than react to it.

It was during this era that PPB Assistant Chief Chris Davis began his career in law enforcement.

"Before that point, our job was to go out and identify the problem for the community, impose our own solution for it, and then congratulate ourselves and leave," says Davis, who joined PPB in 1998. "That left the sort of collateral damage that you're still seeing today."

Davis, who now oversees PPB's day-to-day operations, says community policing is often used to describe "crime control without the collateral damage."

“It’s engaging people who actually live in a neighborhood about what they see being a problem, and how they think we could best solve the problem,” he says. “It’s getting to the root causes of issues.”

This kind of law-enforcement mentality has taken many forms in Portland. At first, community policing mostly meant hiring more officers of color. More recently, it’s been used to describe a temporary program where officers patrolled Southeast Hawthorne on foot, building relationships with homeless people, business owners, and residents. This summer, the phrase was associated with a program in which PPB paired with Lloyd District organizations to hold frequent community events in Holladay Park in an effort to deter crime.

After a 2012 investigation by the Department of Justice found PPB officers had a “pattern and practice” of disproportionately using force against people with a perceived mental illness, the city was ordered to create a civilian oversight group that would propose ways to improve PPB’s community engagement. But after several false starts, the Portland Committee on Community-Engaged Policing (PCCEP) has yet to produce substantive ideas.

So far, the city’s most enduring community policing program is the one focused on New Columbia, Oregon’s largest public housing development.

Before New Columbia, there was Columbia Villa. Built in 1942 as white-only housing for World War II shipyard workers, Columbia Villa gained national attention for its unique suburban layout and charm. By the early ’80s, however, government neglect and poverty had turned the sprawling complex into a magnet for drug sales and violent crime. In 1988, Portland’s first gang-related killing took place on Columbia Villa’s streets, kicking off the first attempt at a community policing program, led by the Multnomah County Sheriff’s Office (MSCO). Columbia Villa’s crime rate began to level off.

In 2001, Portland’s housing authority, Home Forward, was awarded a \$35 million federal grant to revitalize Columbia Villa by razing dilapidated apartments, building community centers, improving parks, and integrating low-income residents with those owning and renting market-rate homes and apartments. MSCO’s community policing program ended, and the redeveloped housing project, which opened its doors in 2005, was given a new name: New Columbia.

The neighborhood facelift, meant to strengthen and empower the long-neglected population, instead destabilized the community, prompting a resurgence of gang violence. In 2011, after an 18-year-old was shot and killed in McCoy Park, which is located in the center of New Columbia, Home Forward met with PPB to reinstate a community policing unit.

From its start, the New Columbia Policing Team has been an evenly split private-public partnership, with the city and Home Forward both contributing around \$254,000 each year. Home Forward’s portion comes from funds collected from New Columbia rental fees and the New Columbia homeowner association, while the city dips into the PPB budget to pay its share.

Instead of chasing 911 calls, New Columbia cops spend most of their time following up on problems raised by tenants, connecting them to social services, or helping resolve issues between neighbors or family members. Instead of writing up tickets for petty nuisances or looking for excuses to pat down teens cutting class, officers try to leave residents with a game plan, whether it’s a list of resources for rent assistance, an appointment with a mediator, or a ride to a clinic to address a long-ignored health problem.

Every Wednesday, the officers meet with staff from Home Forward and New Columbia’s management company, Income Property Management, to review the past week’s police calls. The main purpose of these meetings is for officers to share information on residents who may

need extra support, like victims of domestic violence, kids who might be skipping school, or tenants at risk of eviction.

Silverman compares his job to that of a switchboard operator. “So much of our work is just connecting people to the right resources,” he says.

Ortiz describes a case involving an older woman with a seizure disorder who lived with her family in the apartment complex. New Columbia officers kept finding the woman sleeping outside, often with bruises all over her body. The officers weren’t sure if the marks came from seizures or if her family had been abusing her, so they alerted a social worker at Home Forward.

In cases like these—cases that rely on knowing a resident and their family, recognizing a pattern of behavior, and knowing what next steps are most appropriate—New Columbia officers demonstrate a unique awareness that can’t be replicated with the PPB’s prevailing policing model.

“That kind of work takes weeks, if not months,” Ortiz says. “It takes hours on the phone, connecting people. It’s not easy.”

Some of the officers’ time is spent doing what Silverman calls “PR work,” like handing out stickers to kids or joining a community dodgeball tournament. While he believes that kind of relationship-building is effective for New Columbia’s younger residents, Silverman says it’s far from the most important community work.

He pointed to one New Columbia resident, a woman who had been “dragged through the court system” after recently recanting a sexual abuse allegation.

“She’s traumatized. I’m going to check in with her soon to see how she’s doing, make sure she’s getting the support she needs,” Silverman says. “That kind of stuff is so much more meaningful for the community than hopping into a three-on-three boys’ basketball game and posing for a photo.”

New Columbia residents are cautiously optimistic about the uncharacteristically focused police team.

Sam Johnson, an African American man who’s lived in the same New Columbia apartment for 11 years, remembers when the development felt more like “a war zone” than a neighborhood.

“There’d be shootings once or twice a week,” Johnson says. “And the police, they would just throw up their hands.... They didn’t know what to do. No one living here felt safe at that time.”

Now, he says, shootings have slowed down, and he’s been impressed with the officers’ conduct, even in unpredictable, intense situations. He recalls an incident when officers showed up at his apartment complex because his neighbor was having a seizure. Based on how Johnson had seen police act in the past, he was worried the New Columbia officers were going to tase his neighbor. They didn’t.

“They were using a lot of composure and tact. They weren’t just going into the situation head first,” says Johnson. “They were really cool about it.”

Alescia Blakely, a Home Forward employee who oversees New Columbia’s resident services, says that if the community were having problems with the officers, she’d know about it.

“This is not a private community,” says Blakely with a laugh. “If there were more concerns, we’d hear something.”

Blakely's office is usually the first stop for New Columbia tenants who need an issue addressed—whether that's help with utility bills, complaints about a barking dog, or interpersonal conflicts. Sometimes residents who aren't comfortable talking to law enforcement bring her crime-related problems, which she ends up sharing with police. But, Blakely says, those conversations are happening far less often.

“What's changed over the past years is that people are going straight to the police and not coming to us first,” she says. “They're realizing, ‘I don't have to be fearful, I don't have to be concerned about how an officer will treat me.’”

While PPB's Davis says the New Columbia unit is an exemplary model of community police work, he adds that community policing was never meant to be the responsibility of a single department.

“Every employee in this organization is responsible for community engagement, from the chief of police to the officer on the street to the records clerk,” he says. “That's our business.”

It's the kind of business many younger officers are interested in. Ortiz says her childhood in South Los Angeles taught her to dislike the police. She was initially interested in a career counseling at-risk youth, informed by her own background in a crime-heavy neighborhood.

“I wanted to be that mentor for kids, and be like, ‘Hey, I was in your shoes, I completely understand what your frustrations are and why you're doing what you're doing,’” Ortiz says.

Only after going on a police ride-along in college did Ortiz realize she could do that work within a police department.

“I want to help people, and this job lets me do that,” she says.

Ortiz is one of the few PPB officers who is fluent in Spanish, a skill that's especially helpful in New Columbia.

“Sometimes me walking into a household of Spanish speakers... they kind of light up and they're relieved that I'm there,” says Ortiz. She's spoken with Latinx residents who've been victims of a crime but never reported it to the police, out of fear they'd be interrogated about their immigration status. “They believe me when I say, ‘We're here to help you guys, we're not immigration,’” she says.

Officer Elise Temple, another cop assigned to the New Columbia detail, put it bluntly in the August City Council meeting: “It's the only position I want in the bureau right now.”

Few officers can squeeze community policing into their work schedules. Before joining the New Columbia team, Silverman worked as a self-described “traffic warning machine” in PPB's East Precinct, where he'd spend hours pulling over drivers at the intersection of Southeast 167th and Stark for minor violations. To Silverman, it's a prime example of half-baked community policing.

“I would give out a bunch of warning tickets, but they were just excuses to get out of the car and talk to people,” he said. “I think the idea was that people would see the cops out and think, ‘I feel kind of safe here.’ Or, ‘Maybe I won't do my crimes here.’ I don't know how long-term effective that was.”

There's little reward in standard PPB patrol work, says Silverman, because officers rarely get to see the conclusion of any specific investigation or explore the underlying issues beneath a conflict—something he believes benefits both officers and citizens.

Traditional police work, Silverman says, is “just putting the fire out for tonight. And moving on.”

Silverman says older officers jokingly call his generation of cops “social workers with a gun.” It’s not a label he’s offended by.

“I think we should embrace that responsibility,” he says.

Davis agrees, and says the bureau’s seen an influx of sharp, self-motivated officers who want to be engaged in “meaningful work.” But due to low staffing levels—thanks to both city budget cuts and PPB’s consistent problems with recruiting and retaining officers—the bureau hasn’t been able to offer that kind of work to new cops.

“What’s frustrating today is... we’re taking these people and putting them out and sending them from call to call to call,” Davis says. “How long are they going to keep doing that kind of work? And what opportunity are we losing?”

During Davis’ early years at PPB, Portland was a city of roughly 530,000 residents, with five precinct offices and around 1,000 sworn officers. Twenty years later, the city has an estimated 123,000 more residents, but only three precincts and 1,001 sworn officers.

Mayor Wheeler, who serves as the city’s police commissioner, shares Davis’ interest in expanding PPB to grow its community policing work.

“As staffing grows, so too will the opportunities to develop more new programs that enhance collaboration and partnerships between the bureau and community,” Wheeler wrote in an email to the Mercury.

Yet Davis believes the city won’t increase staff sizes without public support of the police bureau. Which, in Portland, is limited.

“The community policing effort has been a detriment to Portland,” says Teresa Raiford, a police accountability activist and 2020 Portland mayoral candidate. “We don’t need it.”

Raiford grew up in Northeast Portland, where her interactions with racist officers and neglected crime victims of color formed her perception of PPB. In 2010, Raiford’s nephew was shot and killed in Old Town; disappointed with the bureau’s work to deter gun violence, she founded Don’t Shoot PDX, a group that advocates for police accountability and gun violence reduction.

Through her work, Raiford says she’s seen PPB’s community policing operate as a tool to oppress low-income and non-white communities, rather than empower them.

“Officers don’t use community policing to investigate crime. They use it to investigate and profile people,” she says.

Raiford points to PPB’s recently terminated “gang list,” a database of people who officers suspected might be affiliated with convicted gang members. Many on the list had no conviction or arrest history, but their alleged association with gangs still made them frequent PPB targets. A 2016 investigation by the Oregonian found that 81 percent of people listed were part of a racial or ethnic minority. PPB dismantled the list shortly after the Oregonian published its findings.

Raiford says she’s seen how community policing has weakened tight-knit communities of color, making people less likely to ask their neighbors for help out of fear those neighbors might have a close relationship with the police.

“In places like New Columbia, you see officers coming up to kids and asking their names and about their families... then share that information with other officers,” Raiford says. “That

violates civil liberties. And these are poor communities that don't have access to legal help. There's a reason there aren't community policing teams in Hillsboro and Lake Oswego."

PPB says it doesn't collect this type of information unless it's related to a criminal investigation. Instead of tasking officers with community engagement, Raiford says the city should prioritize sharing resources with low-income communities—like funds for community events—to allow for peer-led community building.

At the August City Council meeting, Portland Copwatch's Dan Handelmann argued that appointing armed police officers to act as arbiters of community safety seemed contradictory.

"You have to think about the power dynamic there," he said. "I find it really disturbing that we're having officers work mediation [and] play dodgeball games with children while wearing guns on their hips."

"What happens if there's an officer-involved shooting?" Handelmann continued. "They build this great relationship with the community and then something happens... and the trust just goes away. Then what?"

In the lead-up to the city's 2018-2019 budget vote, a new community activism group emerged: Care Not Cops. The organization's message was simple: Take budget dollars reserved for PPB and distribute them among non-police programs that could better support people who are the frequent subjects of 911 calls, like those in a mental health crisis or homeless individuals.

Kaitlyn Dey, a member of Care Not Cops, says this idea would replace community policing, which she calls a "PR stunt."

"We believe real community care comes from within our community and not an outside force," says Dey. "Especially not an outside force that has a history of surveilling communities."

The final city budget didn't include the sweeping cuts proposed by the group, but it did contain funding for a pilot program to explore alternatives to the city's current police response. Mayor Wheeler and Commissioner Hardesty are expected to present a proposal for that pilot program to City Council in November.

One of the city's tentative ideas is having social workers, mediators, or mental health experts respond to low-level 911 calls, like reports about a noisy neighbor, a person sleeping on a sidewalk, or a suspicious-looking stranger.

These are the kinds of calls the New Columbia Policing Team spend most of their time on.

While the New Columbia program's mission isn't meant to replace community policing—a practice both Hardesty and Wheeler endorse—it could redirect officers to focus more on high-level crime than relationship-building. The city's Office of Community and Civic Life (OCCL) has also begun questioning if neighborhoods have become too reliant on cops to solve non-criminal community problems.

"In Civic Life, we're reorienting crime prevention towards... equipping community members to deal with their own challenges instead of involving law enforcement," said Commissioner Chloe Eudaly, who oversees OCCL, at a recent City Council meeting.

Since the creation of New Columbia's small police team in 2012, the number of yearly 911 calls for service in the area has dropped from 1,530 down to 953 in 2018. The City of Portland, meanwhile, has watched its total 911 calls steadily rise over the same period of time.

There's still crime in New Columbia. The four-person team regularly responds to reports of car theft, break-ins, domestic abuse, and assaults. The officers don't know every resident by name, and many of those who live in New Columbia intend to keep it that way. Silverman says there are always going to be people who—understandably—have no interest in engaging with them.

“If you've had negative interactions with the police, it's going to take dozens of positive interactions to change that,” Silverman says. “There's no amount of community policing that's going to fix the fact that they saw their uncle being beaten by a police officer.”

After visiting Susan during their recent shift, Ortiz and Silverman retreat to their patrol car, where they look up their next assignment on the car's computer screen. A man watches them from his apartment door, scowling as they pull out of the parking lot.

“At its most basic, I just want people we interact with to say, ‘I called the police and my life got better, not worse,’” says Silverman. “If I can just do that, already I'm defying the expectations people have of us.”

OPB

City Of Portland Denies Request To Add Pipes To Zenith Oil Terminal

By Cassandra Profita

October 22, 2019

The city of Portland has denied a request from Zenith Energy to install three additional pipes at its oil terminal in the northwest industrial area.

The city's Office of Community Technology sent a rejection letter to the company on Friday saying officials couldn't be sure the pipes proposed to run under NW Front Avenue wouldn't be used to transport fossil fuels.

Furthermore, the letter said the city can't trust Zenith to accurately report what might be flowing through the pipes because the company is already failing to meet city requirements.

Zenith had told the city the new pipes would be used to transport renewable biodiesel and a liquid intermediate known as MDI, or methyl diphenyl isocyanate, which is used to make plywood and particle board.

The company currently receives crude oil from trains and stores it in tanks at its terminal, and it is in the process of adding to its capacity to unload rail cars. It uses existing pipes to transport the oil to outgoing ships. But company officials were adamant that the new pipes wouldn't be used for fossil fuels. They even invited the city to inspect the pipes to be sure they weren't violating a city resolution opposing any expansion of fossil fuel infrastructure.

The city's rejection is a victory for opponents of the Zenith project, who are hoping the city will use its authority to shut down Zenith's crude oil operations.

Environmental groups oppose the project because they say it flies in the face of the city's resolution and contributes to climate change.

In her rejection letter, Elizabeth Perez, interim director of the city's Office of Community Technology, said her office “is not prepared or equipped” to monitor and inspect the pipes to make sure they aren't being used for fossil fuels.

Zenith had also offered to submit annual reports on the contents of the pipes, but Perez rejected that commitment because, she wrote, the company is already failing to meet existing requirements – including paying city franchise fees and filing reports on those fees.

She noted the company is more than five months overdue on a May deadline to pay its franchise fees for 2018.

“Zenith’s failure to meet these existing contractual commitments makes OCT unwilling to rely on the additional commitments in Zenith’s proposed condition,” she wrote. “If OCT cannot rely on Zenith to make its franchise fee payment on time and file the required report on time, then OCT also cannot rely on Zenith’s promise in its proposed condition to file annual reports about the products transported in the pipes.”

Portland Mayor Ted Wheeler said in a statement he supports the decision.

“I am deeply dedicated to protecting our environment. Portland’s commitment to be a climate leader nationally and globally requires a rapid transition away from fossil fuels to cleaner, renewable fuels and electrification of our transportation sector,” he said, according to the statement.

Opponents of Zenith’s oil terminal say the city shouldn’t trust the company given its history of failing to report major changes in its operations. Hundreds of opponents gathered at a meeting earlier this year to urge city leaders to stop the company from expanding its operations, and they have promised to do what they can.

Notes from a meeting between city officials and the company earlier this year suggest Zenith gave the city false information about whether its Portland terminal was handling crude oil from tar sands in Canada.

Dan Serres with the environmental group Columbia Riverkeeper said Zenith has changed its operations to ship more crude oil without much public involvement or notice to city leaders.

“The city, I think, agrees with concerns that many Portlanders have raised about whether the company can be relied upon to do what it says it’s going to do,” he said. “The city is, in our view, right to be very cautious here.”

Serres said he thinks it’s a bad idea to allow the company to transport MDI, adding “another toxic chemical to what is already a very dangerous oil train operation.”

According to the U.S. Environmental Protection Agency, that class of chemical can pose an inhalation hazard and has been documented to cause asthma and lung damage.

Zenith issued a statement Tuesday afternoon expressing disappointment with the city’s denial of its request. The company also said it had “remedied the past due franchise fee” by making a payment on Monday.

Safeway Faces Lawsuit Due To Hidden Fees Related To Portland Clean Energy Tax

By Meerah Powell

October 22, 2019

Safeway is facing a class action lawsuit after a Portland store charged a customer an undisclosed fee.

Joshua Gagnier thought he paid the advertised \$3.33 for a bottle of wine at the Safeway on 122nd Avenue when he noticed an extra \$0.03 on his receipt.

Michael Fuller, Gagnier's attorney, said that hidden surcharge was passed along to customers to cover Safeway's obligation to the Portland Clean Energy Initiative — a tax on some large companies doing business in the city that went into effect Jan. 1.

It applies to businesses that make more than \$1 billion in gross revenue nationally and \$500,000 in Portland. A 1% tax will apply to the gross revenue generated specifically in Portland.

Proponents of the tax expect it to raise more than \$30 million annually for clean energy projects and jobs.

The tax does not apply to items such as groceries, utilities, medicine or health care services.

“In an effort to profit and to obtain an unfair advantage over its competitors, Safeway misled thousands of Oregon customers into paying unlawful hidden surcharges on certain non-grocery items,” the lawsuit states.

“A store is free to charge any surcharge or additional charge they want on top of an advertised price, so long as they disclose that on the shelf,” Fuller said. “Safeway is ripping off thousands of customers by advertising one price on the shelf and then charging another higher price at the register.”

Fuller said his client's claim falls under the Oregon Unlawful Trade Practices Act, an Oregon law that states, among other principles, that businesses cannot falsely advertise prices. Fuller is calling for other Safeway customers to file claims if they also paid similar surcharges.

He is representing clients in another class action lawsuit against AT&T for passing Clean Energy surcharges onto its customers, even though that lawsuit states the company doesn't have to pay the tax because of an exemption for utility companies.

Safeway did not immediately respond to request for comment.