

Dune grading appeal denied

Commission upholds sand removal permit

By LYRA FONTAINE
The Daily Astorian

CANNON BEACH — The Cannon Beach Planning Commission rejected an appeal of an administrative decision to allow remedial sand removal at the Breakers Point condominium development.

"I think there are a lot of erroneous information pieces in (Oregon Coast Alliance's) request to modify the conditions of our permit," Breakers Point Homeowners Association representative Bruce Francis said at last week's public hearing. "I urge you to uphold it as written."

In July, the city approved the homeowners association's request for remedial dune grading from the lawns and irrigation systems in between two units.

In August, Oregon Coast Alliance contested the city's



The Daily Astorian/File Photo

Bruce Francis, property manager of the Breakers Point Homeowners Association, tromps through European dune grass that has trapped windblown sand west of Breakers Point.

decision to issue the permit. The nonprofit organization stated that the permit lacked compliance with zoning code, sand-inundation proof, sand-volume estimates, a time frame and impact on the Ecola Creek estuary.

Francis said the amount of sand to be removed is 10 to 20 cubic yards and that he marked the sand location in the application. "I don't see why that's

not specific enough," he said.

"This is all sand that's within the property constraints of Breakers Point," property owner Frank Patrick said. "It blew all over the lawn and we're just trying to fix it."

According to the staff report, municipal code includes a time frame for the project: a development permit will be null and void if work has not started within 180 days

of its issuance or if work is abandoned for more than 180 days after work has started.

"I think some of the ideas (Oregon Coast Alliance) presented are good but I don't think they necessarily have to do with this permit," Planning Commissioner Lisa Kerr said.

The remedial dune-grading permit is a fairly common permit that many in Cannon Beach have, City Planner Mark Barnes said. Some permits are renewed annually to take sand off porches or backyards.

The remedial dune-grading permit states that the sand will be disposed on an eroding section of the Ecola Creek shoreline near the southwest corner of the property. Conditions include that all areas left bare of vegetation should be stabilized and revegetated. The proposal is not expected to negatively affect adjacent properties.

The commission could revisit the issue after the city's ongoing sand-management plan is finished.

State sued to block placement of children in hotels, offices

By CLAIRE WITHYCOMBE
Capital Bureau

SALEM — A federal lawsuit filed Tuesday to stop the state Department of Human Services from placing foster children temporarily in hotels and offices alleges the practice inflicts emotional trauma on kids and violates their civil rights.

The lawsuit, filed in U.S. District Court in Portland on behalf of two children represented by a temporary court guardian, alleges the department denied them due process and violated both federal and state civil rights laws.

The plaintiffs seek class action status for the lawsuit, which would extend the complaint to similarly placed foster children.

The lawsuit also criticizes the evidently recent trend of the state placing more of its charges in hotels, and what plaintiffs characterize as the department's broader history of "placement instability" for many children in its care.

"The state has removed these children from their homes despite not having any home to move them to," the lawsuit states in an introduction. "As experts in the field agree, the state's practice of rendering foster children functionally homeless is unconscionable. It is also unlawful."

A Department of Human Services spokeswoman, Andrea Cantu-Schomus, said in an email Tuesday that the department does not comment on pending litigation.

Department officials have previously said that the number of available beds for children and youth in the substitute care system has decreased in recent years.

At least 63 children have been placed in hotels in 2016, with the vast majority of them — 60 — placed since June, according to the lawsuit.

Obligation to children

The lawsuit claims the department failed to meet its obligation to the two children, who are protected under the Americans with Disabilities Act, the Rehabilitation Act and Oregon's anti-discrimination statute because of their respective mental health diagnoses.

Both Ed Johnson, an attorney for the Oregon Law Center, and Angela Sherbo, an attorney for Youth Rights Justice Partnership, referred inquiries about the lawsuit to Richard Vangelisti, the plaintiffs' guardian ad litem.

Vangelisti represents two children, ages 4 and 6, as a temporary guardian in the civil rights matters raised in the lawsuit.

The 4-year-old, who has been diagnosed with adjustment disorder, was removed from a foster home after more than two years there, after she



State of Oregon

Director Clyde Saiki, Oregon Department of Human Services.

had "very severe meltdowns" or "rages."

The 6-year-old, who, according to the lawsuit, entered state care after repeated reports of abuse by her mother, suffers from several disorders, including post-traumatic stress, anxiety and adjustment disorders.

She was placed in at least eight different locations and had at least 20 caregivers in her first two months of state custody, according to the lawsuit.

Reiterating the claims of the lawsuit, Vangelisti said Tuesday that the condition of the children was likely to be exacerbated by the impermanency of their living arrangements.

"Obviously, children in foster care are some of the most vulnerable children in our society, and it's likely that perhaps as much as 75 percent of children who are not placed are suffering from some kind of emotional, behavioral or cognitive problem," Vangelisti said. "And so when DHS chooses not to put them in placement with a family member, relative, caregiver or certified foster home, and then, in turn, put them in a hotel or an office, it exacerbates those underlying problems that the children have."

Underreported

Vangelisti said that it's possible that the number of Oregon children in these short-term placements is underreported, based on information the state has released publicly and on news reports this summer.

The lawsuit states another child — not a plaintiff in the lawsuit — was placed in a juvenile detention facility in Deschutes County for almost a month, despite having no crim-

inal charges, and that the Washington County DHS branch converted part of its visitation center in the district office so children could stay there overnight.

Further, the lawsuit claims that based on state data, children in DHS care have also stayed in hospitals longer than they needed to because the agency could not find an appropriate place for them to stay.

Spaces such as hotels and DHS offices are not certified by the department, unlike foster homes, agencies or residential facilities, and in so doing the agency "is not holding itself to the standards it imposes upon others caring for children," the lawsuit states.

The lawsuit also claims that the plaintiffs approached the department about the issue and tried to avoid filing litigation.

An attorney or attorneys

for the children sent a letter to DHS on Aug. 16 about the issue, asking to meet to "discuss possible solutions" before Aug. 25.

Clyde Saiki, the agency's director, responded, but it's not clear from the lawsuit what he said. In turn, plaintiffs' counsel wrote to Saiki again, "emphasizing the urgency of the matter."

A meeting was proposed by Dr. Reginald Richardson, the deputy director of the department, for Aug. 24, but was canceled, according to the lawsuit.

Vangelisti said he was not present at meetings between the attorneys and department representatives, but that the agency has been "cooperative."

"I understand that DHS, in meeting with the lawyers who represent me, that DHS has been cooperative and that those meetings have been productive, but that at the end of the day, we didn't reach any sort of agreement as to what should be done in terms of the practice," Vangelisti said.

Intense scrutiny

The department is trying to turn its child welfare program around after more than a year of intense scrutiny, after revelations of abuse in foster care and agency failures to adequately respond to allegations of abuse.

Kids in Oregon's substitute care systems are abused at rates higher than many other states, according to federal data.



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