

Lawsuit over Riverwalk Inn heads to trial in October

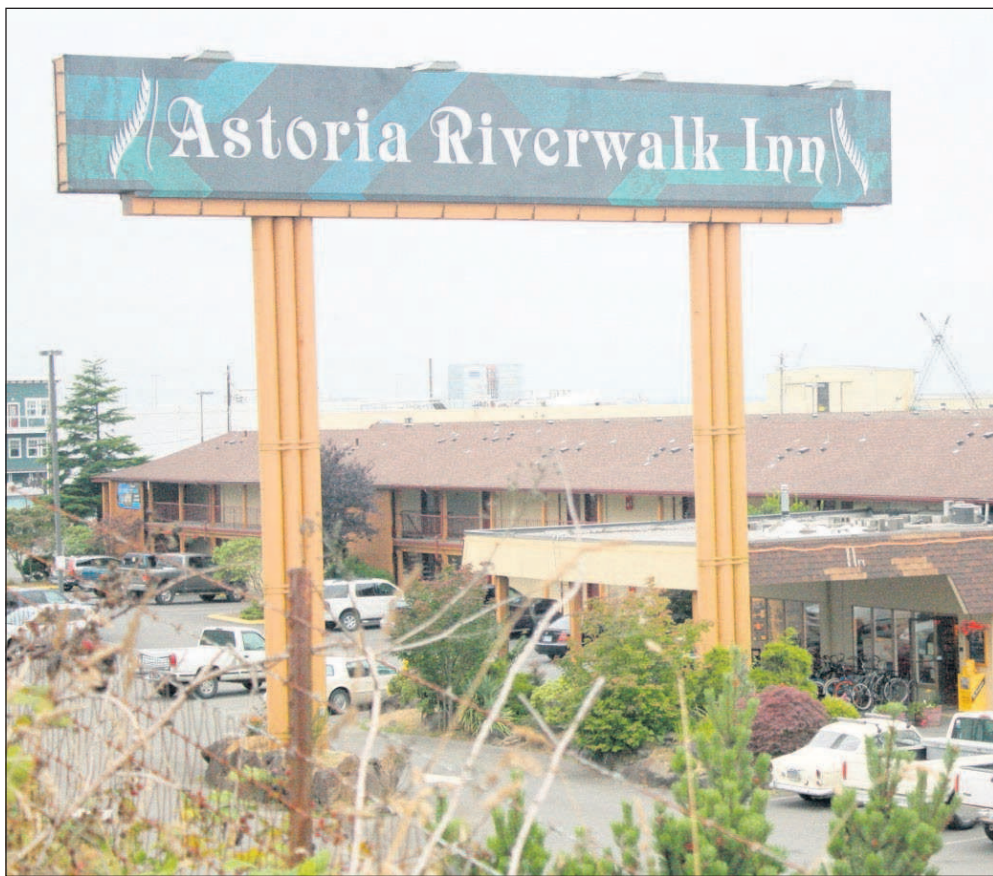
Judge rejects requests by Port, hotelier

By EDWARD STRATTON
The Daily Astorian

Clatsop County Circuit Court Judge Dawn McIntosh has denied attempts by the Port of Astoria and Param Hotel Corp. to win judgment in their legal battle over the Astoria Riverwalk Inn before trial in October.

Param Hotel Corp., which operates several hotels in the Portland metro area, had sought since 2014 to take over operation of the Riverwalk Inn from heavily indebted former operator Brad Smithart. The Port Commission in June 2015 voted to have Executive Director Jim Knight transfer Smithart's remaining lease to Param, but the transfer never materialized.

The Port instead chose Astoria Hospitality Ventures in 2015 to operate the hotel. Param then sued the agency for specific performance, breach of contract, fraud and negligent misrepresentation. Knight was also sued for fraud and negligent misrepresentation.



Edward Stratton/The Daily Astorian

A Portland area hotelier has sued the Port of Astoria over the lease for the Astoria Riverwalk Inn. Param Hotel Corp., had sought since 2014 to take over operation of the inn.

Earlier this year, the Port filed a motion for summary judgment seeking to have the entire case thrown out. Within days, Param filed a motion

for partial summary judgment seeking to force the Port to transfer the company the lease on the Riverwalk Inn or pay monetary damages.

Specific performance
Param asked for partial summary judgment on its claim of specific performance, a legal remedy used when

no other remedy, including money, will adequately compensate an aggrieved party. A ruling in Param's favor would have forced the Port to transfer the lease on the Riverwalk Inn to the company.
McIntosh denied Param's attempt, along with its alternative of monetary damages for breach of contract.

McIntosh also dismissed Param's claim of negligent misrepresentation against the Port and Knight. She ruled that negotiations between the parties were at arms length, and that the Port did not assume any special duties to further the economic interests of Param.

No contract

In its motion to have the case dismissed, the Port argued that "the undisputed facts confirm that there was never an enforceable contract," and that because there was no contract, there could be no specific performance or breach of contract. McIntosh ruled against the agency, arguing that the requirement of a written contract applies to the purchase of goods and services, and not the approval of a lease assignment. "Even if they were interpreted to apply to the present situation, nothing in the rules

themselves dictates the form a written document must take or requires that the written document be signed by the executive director after the agreement itself has been approved by the board," McIntosh wrote. "The only requirements in that event would be the existence of a written document and the terms of the agreement having been approved by the board."

The Port claimed that the statute of frauds, a state law in many cases requiring a written and signed document, barred Param's claims of fraud against the agency and Knight because of the lack of such a document. But McIntosh argued that the Port Commission's approved meeting minutes, referencing the group's approval of the lease transfer, were sufficient to satisfy the statute.

Past denial

Last month, McIntosh had declined Param's attempts to have the entire case ruled in its favor because the Port withheld information during discovery. She instead ordered the Port to pay for additional depositions of staff in advance of the trial, which had been scheduled for April but has now been pushed back to October.

Gun ban: Similar processes are already in place in several states

Continued from Page 1A

"We want to make sure individuals do not lose their gun rights. We are trying to help family members help those individuals."

Family or police

The bill allows members of a person's immediate household — or police at their request — to seek an "extreme risk protection order" from a judge to deny possession of firearms if the person is at imminent risk of suicide or a danger to others.

The judge would have to decide on the request that day or the next judicial day, but the petitioner would have to present "clear and convincing evidence" to justify the order. A person would have 30 days to request a hearing to rescind an order.

"We are targeting only those individuals who want to commit suicide and unfortunately may murder their spouse, their children or their roommate in the house," Boquist said. "This is not some broad, sweeping confiscation like you see in Breitbart News."

His reference was to the right-wing website formerly run by Steve Bannon, who is now chief strategist for President Donald Trump.

Boquist said similar processes already are in place in several states, among them Connecticut, California and

Washington, where voters in 2016 approved it by ballot measure. He said the Washington law is broader than SB 719.

Course of action

On Feb. 16, 2016, Sethan Charles Sprague, Boquist's oldest son and a 31-year-old Navy veteran, took his own life.

Although Boquist did not mention his son, he did talk about the three Army veterans under his command who took their own lives after returning from Iraq. He said during his years in the House and Senate, going back to 2005, he has kept an index card on his desk.

"On that card are (the names of) the people I sent to die," he said. "There is not a serving general officer who sent more people to die than I have — not one," said Boquist, who leads the Senate Veterans' Committee.

"For 12 years, this Legislature has struggled on what to do about veterans' suicides and veterans and suicide in general."

According to the Centers for Disease Control and Prevention, Oregon recorded a suicide rate of 19.3 per 100,000 in 2016 — and it is rising faster than the growing national rate.

No Democrat spoke other than Majority Leader Ginny Burdick of Portland, who closed debate and praised

Boquist for his courage and integrity.

"By identifying signs that a person may be suffering trauma and temporarily separating them from their firearms, we can effectively protect veterans and others in crisis so that they can get the help they need," Burdick said.

Emotional opposition

Perhaps because a fellow Republican was its chief manager, Republican opponents refrained from harsh criticism.

Sen. Kim Thatcher of Keizer, one of two Republicans to oppose the bill in the Senate Judiciary Committee, complained it was too vague.

Thatcher closed up in her teasing remarks.

"I am not a veteran ... but my family has been touched by suicide," she said. "There is something that is just not addressable by legislation, and that is the unpredictability of the human mind."

"I have no doubt that this legislation brought forth was out of concern and caring. But it comes down to words on paper. I do not think it will

make any difference."

Sen. Alan Olsen, R-Canby, also an Army veteran, said the real answer is an expansion of mental health services.

"We are the problem because we have not solved it," he said. "It looks good, feels good, but it does not help anyone."

Boquist said he agreed, but he took a political beating when he teamed up in 2013 with Senate President Peter Courtney, D-Salem, to secure more money for mental health through higher tobacco taxes.

He referred to incidents involving firearms in April in Gresham and West Linn. In the April 12 incident in Gresham, police say the man shot his two daughters before taking his own life. On April 21, West Linn police shot a man dead in an incident ruled as a suicide.

Days ago, the Senate passed a bill requiring police to undergo training in how to avert suicide.

"That is unfortunately the training we have given them: Show up, talk the guy down, and if it doesn't work, use your



Sen. Kim Thatcher

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Glock," Boquist said.

"But that is not what we need to be doing in this state."

Reaction from groups

The bill drew expected criticism and praise from the usual interest groups in the gun control debate.

The National Rifle Association's Institute for Legislative Action called the bill "unnecessary and goes far beyond existing law," but avoided personal references to Boquist.

Oregon Firearms Federation, which bills itself as a no-compromise group, described Boquist as a "formerly pro-gun Republican" and SB 719 as "one of the most dangerous pieces of legislation the anti-gunners have ever dreamed of."

There were other views.

"Today the Oregon Senate took an important, bipartisan step to making Oregon safer from gun violence," said Jenn Lynch, president of the Oregon Alliance for Gun

Safety. "Oregonians can work together to find effective solutions to make our communities safer."

Americans for Responsible Solutions, the gun violence prevention group co-founded by former U.S. Rep. Gabrielle Giffords of Arizona and her husband Mark Kelly, offered a statement from Multnomah County Sheriff Mike Reese, a member of the advisory committee for Oregon Coalition for Common Sense.

"Throughout my career, I have seen how guns in the hands of individuals who are at risk of harming themselves or others can lead to tragedy," Reese said. "Today's vote by the Oregon Senate is a positive step towards giving law enforcement the tools we need to help people in crisis and make our state a safer place to live."

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Evening listings
TUESDAY

TUESDAY EVENING												MAY 2	
A	L	6 PM	6:30	7 PM	7:30	8 PM	8:30	9 PM	9:30	10 PM	10:30	11 PM	11:30
2	KATU	(2) KATU News at 6		Jeopardy!	Wheel of Fortune	The Middle (N)	Am.Housewife (N)	Fresh Off-Boat (N)	Imaginary (N)	SHIELD "Farewell, Cruel World!" (N)	KATU News at 11	(35) Jimmy Kimmel	
3	KOMO	(4) KOMO 4 News		Jeopardy!	Wheel of Fortune	The Middle (N)	Am.Housewife (N)	Fresh Off-Boat (N)	Imaginary (N)	SHIELD "Farewell, Cruel World!" (N)	KOMO 4 News	(35) Jimmy Kimmel	
5	KING	(5) NBC Nightly News	KING 5 News	KING 5 News	Evening	The Voice "Live Top 11 Eliminations" (N)	Great News (N)	Great News (N)	Great News (N)	Chicago Fire "Carry Me" (N)	KING 5 News	(35) Tonight Show	
6	KOIN	(6) KOIN Local 6 at 6	CBS Evening News	Extra	Ent. Tonight	NCIS "Beastmaster" (N)	Bull "Make Me" (N)	Bull "Make Me" (N)	Bull "Make Me" (N)	NCIS: New Orleans "Knockout" (N)	KOIN 6 News @ 11	(35) Colbert	
7	KIRO	(7) KIRO 7 News	CBS Evening News	The Insider	Ent. Tonight	NCIS "Beastmaster" (N)	Bull "Make Me" (N)	Bull "Make Me" (N)	Bull "Make Me" (N)	NCIS: New Orleans "Knockout" (N)	KIRO News	(35) Colbert	
8	KGW	(8) KGW News at 6:00 p.m.		Live at 7	Inside Edition	The Voice "Live Top 11 Eliminations" (N)	Great News (N)	Great News (N)	Great News (N)	Chicago Fire "Carry Me" (N)	KGW News at 11	(35) Tonight Show	
9	KRCV	(9) Last Man Standing	Last Man Standing	Modern Family	Modern Family	The Flash "I Know Who You Are" (N)	iZombie "Spanking the Zombie" (N)	KGW News at 10	Two and a Half	KGW News at 10	Two and a Half	Met Your Mother	
10	KOPB	(10) Ask-Old House	Business (N)	PBS NewsHour	Modern Family	Victorian Slum H "The 1860s" (P) (N)	A.Experience "Ripley: Believe It or Not"	Frontline "Second Chance Kids" (N)	Pacific Heartbeat	"Mele Murals" (N)			
12	KPTV	(12) 6 O'Clock News		Family Feud	Family Feud	Brooklyn 99 (N)	The Mick (SF) (N)	Prison Break "Contingency" (N)	10 O'Clock News	11 O'Clock News	2 Broke Girls		
13	KPDx	(13) Mike & Molly	Mike & Molly	Big Bang Theory	Big Bang Theory	FOX 12's 8 O'Clock News on PDX-TV	FOX 12's 9 O'Clock News on PDX-TV	Prison Break "Contingency" (N)	Family Guy	Family Guy	American Dad	Cleveland Show	
13	KCPQ	(13) Modern Family	Modern Family	Big Bang Theory	Big Bang Theory	Brooklyn 99 (N)	The Mick (SF) (N)	Prison Break "Contingency" (N)	Q13 News at 10	Q13 News	The Simpsons		
20	TBS	(20) Seinfeld	Seinfeld	Seinfeld	Seinfeld	Big Bang Theory	Big Bang Theory	Big Bang Theory	Big Bang Theory	Big Bang Theory	Conan (N)		
22	KZJO	(22) Two and a Half	Two and a Half	Last Man Standing	Last Man Standing	Modern Family	Modern Family	Q13 News at 9	Big Bang Theory	Big Bang Theory	Friends	Friends	
29	ESPN	(29) SportsCenter Special "Draft Grades"		SportsCenter	SportsCenter	SportsCenter	SportsCenter	SportsCenter With Scott Van Pelt	SportsCenter	SportsCenter	SportsCenter	SportsCenter	
30	ESPN2	(30) We the Fans	We the Fans	We the Fans/ Soldier	We the Fans/ Soldier	SportsCenter Special "Draft Grades"		Jalen & Jacoby (N)	30 for 30 "Elway to Marino"				
31	NICK	(31) Henry Danger	Henry Danger	The Thundermans	The Thundermans	NickyRickyDicky	Game Shakers	Full House	Full House	Full House	Friends	Friends	
32	DISN	(32) Radio Disney Music Awards		K.C. Undercover	Good Luck Charlie	Stick in the Middle	Good Luck Charlie	K.C. Undercover	K.C. Undercover	Liv Maddie Cali	Bunk'd	Jessie	
34	FAM	(34) Famous in Love "A Star is Torn"		Pretty Little Liars	Pretty Little Liars	Pretty Little Liars	"Hold Your Piece" (N)	Famous in Love "Not So Easy A" (N)	Truth & Iliza (P) (N)	Young & Hungry	The 700 Club		
35	FMC	(35) 13 Going on 30	(04) Mark Ruffalo, Jennifer Garner.	(40) FXM Presents	★ ★ The Hot Chick (2002, Comedy) Anna Farris, Rob Schneider.	(55) FXM Presents	★ ★ Mona Lisa Smile '03, Comedy/Drama) Julia Stiles, Kirsten Dunst, Julia Roberts.	The Pop Game	Little Women: LA	Little Women: LA	Post-game	MLB Baseball L.A. Angels vs Seattle	
36	LIFE	(36) Little Women: LA		Little Women: LA	Little Women: LA - A Little Extra	Little Women: LA	Little Women: LA	Seattle, Wash. (L)	Speak for Yourself	Skip and Shannon: Undisputed Opinions on the biggest sports topics of the day.			
38	ROOT	(38) Mariners Access	Mariners Pre-game	MLB Baseball Los Angeles Angels of Anaheim at Seattle Mariners Site: Safeco Field	MLB Whiparound (L)								
39	FST	(39) Boxing Premier Champions (L)											
43	SPiKE	(43) (5:30) ★ ★ ★ Batman Begins (2005, Action) Michael Caine, Liam Neeson, Christian Bale.						★★★ The Dark Knight Rises (2012, Action) Christian Bale, Tom Hardy, Anne Hathaway.					
44	COM	(44) Futurama	Futurama	South Park	South Park	South Park	South Park	Tosh.0	Tosh.0	Problematic (N)	South Park	The Daily Show (N) @midnight (N)	
45	HIST	(45) Forged in Fire "Viking Battle Axe"		Forged in Fire "The Cutlass"	Forged in Fire "Makraka" (N)			Forged in Fire (N)		(05) JFK Dec. "The Russian Network" (N)		(05) Forged in Fire	
46	A&E	(46) Intervention "Robert"		Intervention "Sturgill J"	Intervention "Justin/ Kayne"			Intervention "Zach and Theresa"		60 Days In "The Marine Test"			
47	TLC	(47) Little People "Time to Go Wild"		Little People, Big World "Countdown to the New Season" (N)	Little People, Big World (N)			Little People, Big World (N)		7 Little Johnstons (N)		(05) Little People, Big World	
48	DISC	(48) Deadliest Catch		Deadliest Catch	Deadliest Catch "Down in Flames" (N)			Deadliest Catch (N)		Cooper's Treasure (N)		Deadliest Catch	
49	NGEO	(49) Alien Earths		Naked Science	(45) Genius "Einstein: Chapter One"			Genius "Einstein: Chapter Two" (N)		Breakthrough (N)		Genius "Einstein: Chapter Two"	
60	TNT	(60) (5:00) NBA Basketball Playoffs			NBA Basketball Playoffs			Inside the NBA				NBA Basketball Playoffs	
61	AMC	(61) (5:30) ★ ★ ★ Ocean's Eleven ('01, Cri) Brad Pitt, Matt Damon, George Clooney.			★★★ Tombstone (1993, Western) Val Kilmer, Michael Biehn, Kurt Russell.					Team Ninja "Qualifying Week 3" (N)		Young Guns ('88, West) Emilio Estevez.	
62	USA	(62) Modern Family	Modern Family	Modern Family	Modern Family	WWE Smackdown! WWE superstars do battle in long-running rivalries.				Chopped "Jump for Bok Choy" (N)		Modern Family	
63	FOOD	(63) Chopped Junior "Heads Will Roll"		Chopped Junior "Love You, Mom!"	Chopped Junior "Let's Taco 'bout It" (N)			Chopped "Oodles Of Noodles"		Home Town (N)		Chopped "Something Dumpling"	
64	HGTV	(64) Fixer Upper "Retiring to the Country"		Fixer Upper	Fixer Upper			Fixer Upper		Home Hunters (N)		House Hunters (N) House Hunters	
65	FNX	(65) (5:00) ★ ★ ★ 300 (2006, Epic) Lena Headey, Gerard Butler.		★★★ Captain America: The First Avenger (2011, Action) Hugo Weaving, Hayley Atwell, Chris Evans.						The Americans "IHOPI" (N)		The Americans "IHOPI"	
67	CNN	(67) Anderson Cooper 360		CNN Tonight With Don Lemon	CNN Tonight With Don Lemon			Anderson Cooper 360		Anderson Cooper 360		CNN Tonight With Don Lemon	
68	FNC	(68) Tucker Carlson Tonight		Hannity	The O'Reilly Factor			Tucker Carlson Tonight		Hannity		The First 100 Days	
61	CNBC	(61) Shark Tank		Shark Tank	Shark Tank			The Profit "Los Gemelos"		The Profit "Dilascia"		Paid Program	
63	BRVA	(63) Below "They Hate Us Cuz They Ain't Us"		Below Deck: Mediterranean	Below "That Was Very Greek of Us"			Below Deck: Mediterranean (SP) (N)		Below Deck: Mediterranean		WatchWhat (N) Below Deck	
64	TCM	(64) (5:00) It Happened One Night		★★★ No Man of Her Own ('32) Clark Gable.		★★★★ Mutiny on the Bounty (1935, True Story) Franchot Tone, Herbert Munding, Charles Laughton.				Clark Gable: Tall, Dark & Handsome		Clark Gable: Tall, Dark & Handsome	
65	SYFY	(65) (5:00) ★ ★ Troy (2004, Action) Orlando Bloom, Eric Bana, Brad Pitt.		★★★ Independence Day (1996, Sci-Fi) Bill Pullman, Jeff Goldblum, Will Smith.						Resident Evil: Afterlife Milla Jovovich.		Resident Evil: Afterlife Milla Jovovich.	
69	RFD	(69) (5:30) Cattlemen	Chasing-Madison	Horseman. "Perfecting the Posse Part 5"	Chris Cox	Rural Eve. News	Ag PhD	Cattlemen to Cattlemen		Chasing-Madison		Product Showcase	