

December 20, 2011

Bureau of Development Services
Neighborhood Inspections & Compliance Services Section
Review/Appeal Desk
1900 SW 4th Avenue Suite 5000
Portland, OR 97201

REQUEST FOR ADMINISTRATIVE REVIEW APPEAL

RE: Case # 11-184318-CC
Location 4th & W Burnside St & Burnside & NW 4th Avenue
Tax Acct # R180202270 & R180202290
Zoning CxdCCCJ, Central Commercial with a Design Overlay, located within the
Central City Plan District and New Chinatown / Japantown Historic District.

Oregon nonprofit Right 2 Dream Too has leased for one year the location referenced above to operate a rest area for unhoused people where they may seek safe shelter and sleep undisturbed. The City of Portland Bureau of Development Services has cited the owners of this location with two code violations:

- 1) Establishment of a Recreational Park-Campground without obtaining required permits (Area Development permit). (Oregon Administrative Rule 918-650-0020, Oregon Revised Statute 455.680 (1) & (3))
- 2) Construction of a fence greater than six feet in height without the required building permit or Historic Design Review approval. (Section 33.445.320 of the Portland Zoning Code and Section 105 of the Oregon Structural Specialty Code)

Right 2 Dream Too believes the OAR code referred to is overbroad. It intends to cover any and all situations in which people might find themselves sleeping outside. Those situations spelled out in OAR 918-650 range from youth and scout camps to RV parks to picnic parks. Our area is intended to serve a population that has no option other than sleeping outside. There is a wide gulf between operating a recreational facility with the goal of sheltering people on vacation and operating a facility with the goal of sheltering people who can not otherwise obtain safe shelter and experience a restful sleep. It is illogical to lump them under the same set of administrative rules. We strongly object to language that suggests anything we are doing is in any way related to recreational activities.

If the Bureau chooses to classify our area as a "recreation park" as defined in OAR 918-650-0005 (17), we ask that the Director of Planning exercise the authority to waive penalties for hardship while we work with Bureau personnel to investigate the process. We are a young nonprofit with limited resources and we were unprepared to undertake an area development permit process for code that we did not believe applied to us.

We ask that the Director consider the following:

- Because the City of Portland can not provide an adequate supply of shelter space for unhoused people, the population served by Right 2 Dream Too's rest area has no choice but to violate one or more of various city ordinances, especially 14A.50.020 (Camping Prohibited on Public Property and Public Rights of Way.) and 14A.50.030 (Sidewalk Use.). We understand that BDS is not responsible for enforcement of those or other ordinances that have the effect of criminalizing unhoused people, but we believe it is relevant for the Director to consider that people, because of their economic circumstances, impacted by the Bureau's actions in this case have no alternatives to violating ordinances, whatever the Bureau's actions.
- It is cruel and unusual punishment to force people making use of Right 2 Dream Too's area back into the streets because we were not aware of the necessity of pursuing an area development permit nor in possession of sufficient resources to open our site to the unhoused and investigate the process simultaneously. The court in *Pottinger v. City of Miami*, 810 F. Supp. 1551, 1580 (S.D. Fla. 1992) recognized that a place to sleep and cover from the elements, among other things, are necessities of life. We think it is relevant for the Director to consider that the Bureau's actions in this case could deprive those using Right 2 Dream Too's area of both of those things and would have a severe impact on their health and well-being.
- In more than two months of operation, Right 2 Dream Too has not been responsible for any public nuisances. We have not had reason to call for any emergency or non-emergency services. To our knowledge, no Portland resident has called the police because of anything we or anyone who has made use of our area has done. We have had two nonviolence trainings, one teaching de-escalation skills, and are in the process of developing a conflict resolution process. The people making use of our area are frequently subject to violence and sometimes perpetuate violence while living in Portland's streets and parks. We are dedicated to and have been successful at providing a nonviolent alternative. We think it is relevant for the Director to consider the overall effect we have are having on public safety for all members of the public, housed and unhoused.
- Three people who have spent time at Right 2 Dream Too's area have successfully accessed permanent housing and two have become employed in our two months of operation. The very first person who slept at Right 2 Dream Too's area, an elderly gentleman who has been living on Portland's streets for several months, is now in the process of getting the Social Security and Veteran's benefits to which he is entitled. Right 2 Dream Too's young network has been able to connect people with services and provide care for people who have fallen through the cracks of our safety net. We think it is relevant for the Director to consider the impact we are having on the lives of Portland's unhoused population.

We are willing to work with the Bureau to begin the permitting process and determine how our fence can either be brought to code or under what circumstances we might be able to get a variance. We can not do those things with the threat of immediate fines looming over our rest area. The extent and severity of the economic crisis that has led to a severe shortage of affordable housing and shelter space warrants consideration for a hardship waiver while we undertake this process. We have achieved more than many of us expected in terms of the impact we are having on the lives of

Portland's most disadvantaged and disenfranchised residents, those whom BDS's mission to "maintain safe and livable neighborhoods" is failing. We ask that the Bureau work with us to help extend this mission to all of Portland's residents.

Thank you for your attention.

Right 2 Dream Too (R2DToo)

Submitted on behalf of the property owners

Contact: Michael M. Moore
Right 2 Dream Too
4635 NE Garfield Avenue
Portland, OR 97211
Cell: (503) 707-1239

cc: Michael Wright, 4833 SE 137th Avenue, Portland, OR 97236
Daniel & Donna Cossette, 2505 SE Lake Road, Milwaukie, OR 97222
Ibrahim Mubarak, Right 2 Dream Too, 4635 NE Garfield Avenue, Portland, OR 97211