



Ballard News-

Tribune

Weekly delivery to Ballard, Sunset Hill, Loyal Heights, Blue Ridge, Olympic Manor, North Beach, Crown

Seattle, Washington • Serving Ballard Since 1891

50 cents 783-1244

Wednesday

Is railroad liable for bicyclists' injuries?

By Tony Brouner
NEWS-TRIBUNE

Byron Cole, the operations manager of the Ballard Terminal Railroad Co., says Bob Anderton impresses him as a decent enough fellow. Anderton is no "Whiplash Willy," Cole said.

And Anderton, an attorney who is representing bicyclists who have suffered injuries in falls on the railroad's tracks, says Cole is a nice guy, too.

Cole and Anderton have had occasion to talk with each other since the City of Seattle told Anderton he ought to take his clients' claims to the railroad's insurance company. Anderton's clients got their bicycle wheels stuck in the flangeway groove where the rail crosses Shilshole Avenue Northwest, just west of the northern approach to the Ballard Bridge.

"They [the city] have punted it," Anderton said. "They've given it over to the Ballard Terminal Railroad."

Anderton said his reading of the railroad's franchise agreement with the city puts the railroad's insurance company on the hook for damages.

"The agreement the Ballard Terminal Railroad Co. made with the city ... is that they have to hold the city harmless," Anderton said. "I think there's an argument to be made that the city has a liability, but ... the only way the Ballard Terminal Railroad Co. gets the city to

pony up is if the city is 100 percent responsible."

Cole said his company has done all it reasonably can to make the area safe.

"It's not because we've done anything wrong," Cole said. "Our responsibility is only for the mechanical crossing, and it's perfect ... the fog lines, the center lines and the channeling of the bike way is the city's responsibility, and there's room for improvement."

Cole said the Shilshole Avenue crossing is "probably the best crossing in the city." He said the flangeway there is of minimum depth and width "because the train itself cut it when the asphalt was still hot. Show me a smoother one."

The railroad's agreement with the city contains "standard boilerplate," Cole said, and that "We didn't envision something [like this], and I don't think the city did, either."

The hazard appears to be caused by the angle at which the rail crosses the road. After several bicyclists took tumbles at the crossing, the city's Transportation Department applied decals to the pavement directing bicyclists to cross the track at a right angle.

While Cole questions the city's position that his company is liable for the bicyclists' injuries, he has passed the matter along to his insurer.

"The city bucked all the claims over to the little railroad

- See **CROSSING**, page 2

2 Wednesday, November 28, 2001 Ballard News-Tribune

Crossing 'best in city,' railroad manager says

CONTINUED FROM PAGE 1

company," Cole said. "We have insurance and we turned the claim over to our insurance company. Maybe they'll pay it, maybe they'll contest it. Who knows what they'll do."

As Anderton sees it, "Somebody has to take responsibility for an unsafe area. The city says, 'We're not taking responsibility and we have an agreement with the railroad that they are responsible.'"

So how will this matter be resolved?

"We prefer to negotiate with them rather than filing a lawsuit," Anderton said. "But we can do that."