

**DEVELOPERS RIP AGENCY'S ACTIONS -- INDUSTRY BACKS
COMPANY IN VALLEY MEDICAL CENTER ASBESTOS CASE;
[FINAL Edition]**

JOHN H. STEVENS

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RENTON - Developers and contractors have flooded the King County prosecutor's office with letters, asking the prosecutor to go easy on one of their own.

The unusual campaign is on behalf of a Redmond demolition company, Nuprecon Inc., which faces \$223,000 in criminal and civil fines for allegedly mishandling an asbestos cleanup during renovation at Valley Medical Center in Renton in 1991.

Most of the 35 letter writers said Nuprecon is well-respected. The building-industry members also vented their frustration with the Puget Sound Air Pollution Control Agency, which investigated the Nuprecon case and gave its findings to the prosecutor. Some builders said the agency acts arbitrarily in its investigations and is too independent and powerful in its enforcement of environmental laws.

Nuprecon's president, John Hennessy, said his company did not violate the Clean Air Act. Hennessy said he asked other companies to write to the prosecutor on his behalf.

"They realized that what has happened to me can happen to them," he said. "This is an unconscionable act (by the air-pollution agency), and we've decided we're not going to take it."

The prosecutor has charged that asbestos fibers may have been blown through a ventilation system for five or six days into the hospital and its maternity ward. The prosecutor filed criminal-misdemeanor charges against Nuprecon, instead of more-serious felony charges, because it could not prove anyone was exposed to dangerous amounts of asbestos.

The pollution-control agency has rarely pursued criminal charges in Clean Air Act cases. But in this instance employees of Nuprecon and

Gall Landau Young Construction Co., the general contractor in the renovation, knew they were breaking the law, said James Nolan, director of the agency's compliance division.

"It's unusual for us to have evidence that a criminal violation occurred," Nolan said.

Nuprecon could be fined up to \$60,000 for the criminal violations and \$163,000 in civil penalties. Gall Landau Young reached a deal with the prosecutor in which the criminal charges will be dropped in one year if the Bellevue company contributes \$10,000 to a charitable health organization and commits no more Clean Air Act violations. The company also must pay civil penalties of \$83,000.

Valley Medical Center is being fined \$298,000 in civil penalties, and another subcontractor, University Mechanical Contractors Inc., faces a \$43,000 fine. No criminal charges were filed against Valley Medical or Mechanical Contractors. The hospital and three companies have asked the air-pollution agency to reduce the fines. Doug Peterson, director of local-government affairs for the Associated General Contractors, said the air-pollution agency is "out of control." The contractors' trade organization wrote a letter supporting Nuprecon.

`Capricious' state agency

He said the control agency is "arbitrary, capricious and excessive. We believe the prosecutor's office is a pawn in this."

Dan Absher, owner of Puyallup-based Absher Construction, said he was astounded by the action taken by the agency and that he had written to the prosecutor to help Nuprecon.

"That's frightening to me, that my people out in the field can make a mistake and I can be liable for criminal charges," he said.

The air-pollution agency has legislative authority to set policy and enforce state air-pollution laws in four counties bordering Puget Sound.

The state Department of Ecology has legal oversight over the agency but does not provide day-to-day management oversight.

"Admittedly, this agency has tremendous power," said Halvorson. "But the Legislature has given us this authority."

The prosecutor's office is reviewing the letters sent by developers, contractors and other professionals who do business with the building industry.

Office spokesman Dan Donohoe said he could not speculate if the letters would influence the prosecutor to moderate its case against Nuprecon.

CHARGES DROPPED IN HOSPITAL-ASBESTOS CASE; [FINAL Edition]

JOHN H. STEVENS

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Copyright Seattle Times Apr 5, 1994

RENTON - Criminal charges against two building contractors for possible Clean Air Act violations were dropped by the King County prosecutor's office yesterday.

The office said it could not prove the firms' workers knew asbestos insulation existed at a renovation project at Valley Medical Center.

The prosecutor had charged that asbestos may have blown through a ventilation system into the hospital and its maternity ward for six days in 1991. The Puget Sound Air Pollution Control Agency alleged employees of Nuprecon Inc. of Redmond and Gall Landau Young Construction Co. of Bellevue knew they were breaking the law. But the prosecutor's office said the charges had been based on a letter sent by Valley Medical Center to Gall Landau, addressing the possibility that asbestos was present. Dan Satterberg, the prosecutor's chief of staff, said the letter was not a clear statement asbestos was there.

Because this was the first time criminal charges were filed in a Clean Air Act case in the state, clear evidence was needed that workers

knew there was asbestos, he said.

The Air Pollution Control Agency was unhappy with the prosecutor's decision, said general counsel Laurie Halvorson.

Nuprecon's President John Hennessy was elated. He has claimed his innocence all along and blamed the agency and an assistant prosecutor for "zealotry."

Hennessy said his company has lost a half-million dollars in revenues and legal fees. He said he would pursue a civil case against the air-pollution control agency.