



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

TriMet vs. Pedro Reyes-Navarro

CASE NO. 3080364

HEARING DATE: October 23, 2008

APPEARANCES:

Pedro Reyes-Navarro, Excluded Party

Officer Michael Danovich, for TriMet

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Timelines: The Hearings Officer finds the following concerning the Notice of Exclusion being issued:

TriMet issued the Notice of Exclusion to Mr. Pedro Reyes-Navarro on October 2, 2008. The case was forwarded to the City of Portland Hearings Office on October 10, 2008. The Hearings Office mailed a hearing notice to the parties on October 14, 2008, within the time prescribed in the TriMet Code. The notice contained the required information concerning Mr. Reyes-Navarro's rights in the hearing process.

Sufficiency of the Notice of Exclusion: A copy of the Notice of Exclusion was provided to Mr. Reyes-Navarro when he was excluded. The notice did reference the violating conduct/applicable code provision.

Stays: The exclusion was subject to an automatic stay upon being issued.

Mitigating and/or Aggravating Factors: The Hearings Officer finds no mitigating or aggravating factors existed when the Notice of Exclusion was issued.

Probability that the excluded individual engaged in the conduct supporting the exclusion: Mr. Reyes-Navarro appeared and testified on his own behalf. Milwaukie Police Officer Danovich appeared and testified on behalf of TriMet. The Hearings Officer makes this decision based upon the testimony of Mr. Reyes-Navarro and Officer Danovich, and the exhibits admitted into the public record (Exhibits 1 through and including 8).

Officer Danovich testified that he was told that a male had urinated on the eastbound Max platform at 122nd. Mr. Reyes-Navarro admitted that he urinated on the Max platform; explaining that medicine he is taking causes him to need to urinate quite often. The Hearings Officer finds that it is more probable than not that Mr. Reye-Navarro did urinate on the 122nd Max platform and as such committed offensive littering. The Hearings Officer finds that the Notice of Exclusion issued to Mr. Pedro Reyes-Navarro on October 2, 2008 is valid.

Special Exceptions: The Hearings Officer finds Mr. Reyes-Navarro is transit dependent. The Hearings Officer finds that Mr. Reyes-Navarro needs access to bus lines 4, 9, and 71 and the eastside Max to travel to/from his residence and a senior center and pharmacy, Monday through Friday from 10:00 AM to 2:00 PM.

ORDER AND DETERMINATION:

1. Validity of the Notice of Exclusion:

The Hearings Officer modifies the Notice of Exclusion issued to Mr. Pedro Reyes-Navarro on October 2, 2008.

2. Length of the Exclusion:

The exclusion shall become effective with this Order, on October 29, 2008, and shall conclude on December 26, 2008 at 5:00 PM.

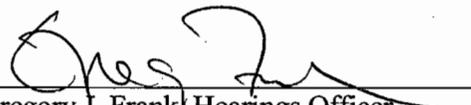
3. Scope of the Exclusion:

Mr. Reyes-Navarro shall have access to TriMet bus lines 4, 9, and 71 and the eastside TriMet Max to travel to/from his residence and a senior center and pharmacy, Monday through Friday from 10:00 AM to 2:00 PM.

4. This order has been mailed to the parties on October 24, 2008, not more than five (5) business days following the hearing, and will become final on October 29, 2008, three (3) business days following the order being mailed.

5. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: October 24, 2008


Gregory J. Frank, Hearings Officer

GJF:cb

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Appeal form page 2	Turner, Anna	Received
2	Fare Inspection form	Turner, Anna	Received
3	Notice of Exclusion w/Officer's affidavit	Turner, Anna	Received
4	Transcript of narrative	Turner, Anna	Received
5	Mailing list	Hearings Office	Received
6	Hearing notice	Hearings Office	Received
7	Statement of Rights	Hearings Office	Received
8	Fax confirmation to Turner	Hearings Office	Received