



**CITY OF**  
**PORTLAND, OREGON**  
**OFFICE OF THE CITY AUDITOR**  
**Hearings Office**

**LaVonne Griffin-Valade, City Auditor**  
1900 SW 4<sup>th</sup> Avenue, Room 3100  
Portland, Oregon 97201  
Telephone: (503) 823-7307  
Fax: (503) 823-4347  
TDD: (503) 823-6868  
[www.portlandonline.com/auditor/hearings](http://www.portlandonline.com/auditor/hearings)

**HEARINGS OFFICER'S ORDER**

TriMet vs. Shali Hasan Urquhart

CASE NO. 3100091  
(TriMet Exclusion Number 151985)

HEARING DATE: March 18, 2010

**APPEARANCES:**

Mr. Shali Hasan Urquhart, Excluded Party

TriMet did not appear

HEARINGS OFFICER: Ms. Christina A. Austin-Smith

**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. Shali Hasan Urquhart on March 2, 2010. The case was forwarded to the City of Portland Hearings Office on March 5, 2010. The Hearings Office mailed a hearing notice to the parties on March 8, 2010, within the time prescribed in the TriMet Code. The notice contained the required information concerning Mr. Urquhart's rights in the hearing process.

**Sufficiency of the Notice of Exclusion:** A copy of the Notice of Exclusion was provided to Mr. Urquhart when he was excluded. The notice referenced 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:** TriMet has the burden to demonstrate that it is more probable than not that the conduct forming the basis to issue the Notice of Exclusion occurred. Mr. Urquhart appeared at the hearing and testified on his own behalf. No representative from TriMet appeared at the hearing. The Hearings Officer makes this decision based upon the testimony of Mr. Urquhart and the exhibits admitted, without objection, into the evidentiary record (Exhibits 1 through and including 6).

Mr. Urquhart testified that he moved to Portland at the end of October 2009 and is fairly new to the public transportation system here. He stated that after he had been riding TriMet daily to get to work for a few months, a coworker offered to sell him a monthly pass. Mr. Urquhart testified he was not familiar with the monthly pass prior to this exchange, but agreed to pay his coworker \$50 for a February pass. He stated he believed his coworker had purchased the pass, but was now selling it. Mr. Urquhart stated his February pass was checked several times while he was riding the MAX by fare inspectors, the same fare inspectors who checked his pass on March 2, 2010, the day he was excluded. He states during these checks, no one ever indicated to him there was anything unusual about his pass. Mr. Urquhart then purchased a March pass from his coworker.

On March 2, 2010, Mr. Urquhart testified that the same two fare inspectors who had previously checked his February pass, a male and female, checked his pass while he was riding the Green Line MAX. He testified they kept passing the pass back and forth and then compared it to another passenger's monthly pass. They showed him how his pass was different than the other passenger's pass and told him his was fraudulent.

TriMet Transit Police Officer Sandy Strait issued the exclusion and submitted a report labeled as Exhibit 3. The officer reports that on March 2, 2010, Mr. Urquhart presented a forged TriMet monthly pass. Specifically, he wrote he "was on a Blue Line from 122<sup>nd</sup> to Gateway TC when fare inspector Tim Moore checked his fare and noticed the forged doc."

Officer Strait issued Mr. Urquhart an exclusion notice for violating TriMet Code 28.15C, engaging in criminal activity while in a District Station, specifically for violating ORS 165.017, Criminal Possession of a Forged Instrument in the Second Degree. ORS 165.017 states "a person commits the crime of criminal possession of a forged instrument in the second degree if knowing it to be forged and with intent to utter same, the person possesses a forged instrument."

The Hearings Officer finds that on March 2, 2010, Mr. Urquhart did present a fraudulent monthly pass to a TriMet fare inspector. However, the Hearings Officer finds Mr. Urquhart's testimony to be credible. The Hearings Officer finds Mr. Urquhart to be naïve, but lacking the requisite knowledge or intent to have violated ORS 165.017.

Therefore, the Hearings Officer finds this exclusion based on TriMet Code 28.15C to be invalid, because the Hearings Officer does not find a violation of ORS 165.017.

#### ORDER AND DETERMINATION:

1. Validity of the Notice of Exclusion:

The Hearings Officer sets aside the Notice of Exclusion issued to Mr. Shali Hasan Urquhart on March 2, 2010.

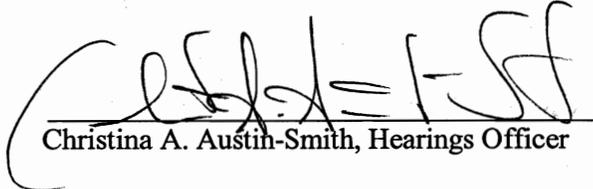
2. Length of the Exclusion:

The exclusion shall not become effective.

3. This order has been mailed to the parties on March 19, 2010, not more than five (5) business days following the hearing, and will become final on March 24, 2010.

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

Dated: March 19, 2010



Christina A. Austin-Smith, Hearings Officer

CAS:gj/rs

Enclosure

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Appeal Form page 2	Turner, Anna	Received
2	TriMet Fare Inspection System print out	Turner, Anna	Received
3	Notice of Exclusion	Turner, Anna	Received
4	Mailing list	Hearings Office	Received
5	Hearing notice	Hearings Office	Received
6	Statement of Rights	Hearings Office	Received