



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

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HEARINGS OFFICER'S ORDER

TriMet vs. Katsuhito Causeway

CASE NO. 3100128
(TriMet Exclusion Number 165339)

HEARING DATE: March 31, 2010

APPEARANCES:

Mr. Katsuhito Causeway, Excluded Party

Supervisor Nancy Carter, 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. Katsuhito Causeway on March 22, 2010. The case was forwarded to the City of Portland Hearings Office on March 25, 2010. The Hearings Office mailed a hearing notice to the parties on March 25, 2010, within the time prescribed in the TriMet Code. The notice contained the required information concerning Mr. Causeway's rights in the hearing process.

Sufficiency of the Notice of Exclusion: A copy of the Notice of Exclusion was provided to Mr. Causeway 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. Causeway appeared at the hearing and testified on his own behalf. TriMet Supervisor Carter appeared at the hearing and testified on behalf of TriMet. The Hearings Officer makes this decision based upon the testimony of Mr. Causeway and Supervisor Carter and the documents admitted into the evidentiary record (Exhibits 1 through and including 7).

Mr. Causeway testified that on March 22, 2010, he was in a hurry and crossed the Max train tracks in an area where he should not have crossed. Mr. Causeway stated that the reason he was in a hurry was a ticket machine, on the side of the platform where he was waiting for a Max train, did not work and he needed to buy a ticket from a machine on a platform on the other side of the Max tracks.

Supervisor Carter testified that she first observed Mr. Causeway on the center platform at the Beaverton Transit Center. Supervisor Carter stated that she watched Mr. Causeway step down, off of the center platform, onto and across the Max tracks and onto a platform. Supervisor Carter stated that there are 4" painted letters on the concrete facing the center platform that prohibits crossing the tracks in that location.

Mr. Causeway received a Notice of Exclusion on March 22, 2010 for allegedly violating TMC 28.15 D (Interference/Trespass on Right-of-way). A person violates TMC 28.15 D (Interference/Trespass on Right-of-way) if the person fails to obey signage prohibiting the crossing of a TriMet right-of-way.

The Hearings Officer finds that Mr. Causeway admitted to crossing a TriMet right-of-way in an area where crossing was prohibited by signage. The Hearings Officer finds it is more probable than not that on March 22, 2010, Mr. Causeway did violate TMC 28.15 D (Interference/Trespass on Right-of-way). The Hearings Officer finds the Notice of Exclusion issued to Mr. Katsuhito Causeway on March 22, 2010 is valid.

Special Exceptions: The Hearings Officer finds Mr. Causeway is transit dependent. The Hearings Officer finds Mr. Causeway needs access all days of the week, except Wednesday, to the Blue Line Max train from 9:00 a.m. to 12 Noon and also between 11:30 p.m. and the next day at 12:30 a.m. to travel between the Beaverton Transit Station and the Lloyd Center Transit Station.

ORDER AND DETERMINATION:

1. Validity of the Notice of Exclusion:

The Hearings Officer modifies the Notice of Exclusion issued to Mr. Katsuhito Causeway on March 22, 2010.

2. Length of the Exclusion:

The exclusion shall become effective with this Order, on April 7, 2010, and shall conclude on June 30, 2010 at 5:00 p.m.

3. Scope of the Exclusion:

Mr. Causeway shall have access all days of the week, except Wednesday, to the Blue Line Max train from 9:00 a.m. to 12 Noon and also between 11:30 p.m. and the next day at 12:30 a.m. to travel between the Beaverton Transit Station and the Lloyd Center Transit Station.

4. This order has been mailed to the parties on April 1, 2010, not more than five (5) business days following the hearing, and will become final on April 7, 2010.

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

Dated: April 1, 2010


Gregory J. Frank, Hearings Officer

GJF:gj/rs

Enclosure

| Exhibit # | Description | Submitted by | Disposition |
|------------------|---|---------------------|--------------------|
| 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 | Scheduling request | Turner, Anna | Received |
| 5 | Mailing list | Hearings Office | Received |
| 6 | Hearing notice | Hearings Office | Received |
| 7 | Statement of Rights | Hearings Office | Received |