



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

TriMet vs. Jacob C. Hume

CASE NO. 3110186

(TriMet Exclusion Number 198129)

HEARING DATE: June 9, 2011

APPEARANCES:

Mr. Jacob Hume, Excluded Party

Officer Anthony Cereghino, on behalf of TriMet

HEARINGS OFFICER: Ms. Kimberly M. Graves

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. Jacob C. Hume on May 10, 2011. The case was forwarded to the City of Portland Hearings Office on May 12, 2011. The Hearings Office mailed a hearing notice and Interim Order extending the stay on the exclusion to the parties on May 13, 2011, within the time prescribed in the TriMet Code. The notice contained the required information concerning Mr. Hume's rights in the hearing process.

Sufficiency of the Notice of Exclusion: A copy of the Notice of Exclusion was provided to Mr. Hume when he was excluded. The notice referenced the violating conduct/applicable code provision.

Stays: The exclusion was stayed on the Hearings Officer's direction on May 13, 2011.

Mitigating and/or Aggravating Factors: The Hearings Officer finds the excluded person used or displayed or threatened to use, a weapon or any object as a weapon.

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. Officer Cereghino appeared and testified on behalf of TriMet. The officer testified that on May 10, 2011, he responded to a report of a subject who had been threatened while riding a TriMet bus. Officer

Cereghino reported meeting with the victim who reported the following incident which occurred on the bus: The victim stated that he had forgotten his honored citizen (HC) card when he boarded the bus. The victim stated that he rides the same bus line daily and that the bus driver allowed him on the bus even though he did not have his HC card. The victim stated that another rider on the bus, later identified as Mr. Hume, became upset because he was riding without showing his HC card. The victim stated that Mr. Hume was arguing with the bus driver and was told to "stay out of it." The victim also reported telling Mr. Hume to "stay out of it." The victim told the officer that Mr. Hume then took an approximately 3-inch razor blade from his jacket and stated, "Don't you ever tell me what to do again." The victim told the officer that Mr. Hume held the knife at the victim's throat while making the previous statement. The officer testified that he also interviewed an "independent witness" who had been on the bus, and that the witness' report was consistent with the victim's report. The officer testified that he also watched a video from the bus and that the video appeared to depict what the victim described, however the video was without sound. Finally, the officer testified that he contacted Mr. Hume regarding the contact. The officer indicated that Mr. Hume did not wish to talk about the incident, and therefore he was not interviewed.

Mr. Hume received a Notice of Exclusion on May 10, 2011 for allegedly violating TMC 28.15C by engaging in conduct constituting the crime of Menacing under ORS 163.190. TMC 28.15C states that:

"No person shall engage in activity prohibited by the criminal laws of any state, county, or municipality, in which the criminal incident occurs, while on a District Vehicle or in or upon a District Station or District Parking Facility."

A person violates ORS 163.190 if a person by word or conduct intentionally attempts to place another in fear of imminent serious physical injury.

Mr. Hume appeared at the hearing and stated that he did not wish to testify because the criminal matter which arose out of this incident is still pending. Mr. Hume stated that he requested the hearing because he needs a qualified exclusion. Exhibits 1 through, and including, 6 were received into the record without objection. The Hearings Officer finds the testimony of Officer Cereghino to be credible and accurately reflect the events leading up to the issuance of the Notice of Exclusion issued to Mr. Hume on May 10, 2011. The Hearings Officer finds it is more probable than not that on May 10, 2011, Mr. Hume violated TMC 28.15C by engaging in conduct constituting the crime of Menacing under ORS 163.190 while on TriMet property. The Hearings Officer finds the Notice of Exclusion issued to Mr. Hume on May 10, 2011 is valid.

Special Exceptions: The Hearings Officer finds there is sufficient evidence in the record to suggest that Mr. Hume is transit dependent and needs access to TriMet during the term of his exclusion to maintain his employment and attend necessary support services. Mr. Hume shall be permitted Monday through Friday between 6:30 a.m. and 5:30 p.m. to ride all TriMet bus lines. Unless specifically allowed in this section, Mr. Hume is prohibited from riding any MAX lines. Mr. Hume shall be permitted on Thursdays between 8:00 a.m. and 12:00 Noon to ride the Yellow line MAX train between the North Lombard Transit Center and downtown Portland. Mr. Hume shall also be permitted on July 1, 2011 between 12:00 Noon and 5:00 p.m. to ride the Yellow line MAX train between the North Lombard Transit Center and downtown Portland.

ORDER AND DETERMINATION:

1. Validity of the Notice of Exclusion:

The Hearings Officer modifies the Notice of Exclusion issued to Mr. Jacob C. Hume on May 10, 2011.

2. Length of the Exclusion:

The exclusion shall become effective with this Order, on June 15, 2011, and shall conclude on August 12, 2011 at 5:00 p.m.

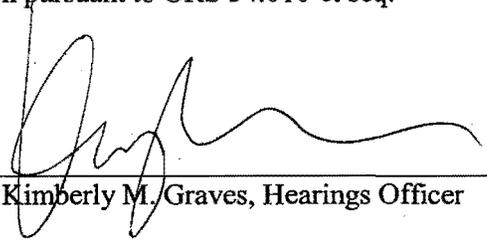
3. Scope of the Exclusion:

Mr. Hume shall be permitted Monday through Friday between 6:30 a.m. and 5:30 p.m. to ride all TriMet **bus** lines. Unless specifically allowed in this section, Mr. Hume is prohibited from riding any MAX lines. Mr. Hume shall be permitted on Thursdays between 8:00 a.m. and 12:00 Noon to ride the Yellow line MAX train between the North Lombard Transit Center and downtown Portland. Mr. Hume shall also be permitted on July 1, 2011 between 12:00 Noon and 5:00 p.m. to ride the Yellow line MAX train between the North Lombard Transit Center and downtown Portland.

4. This order has been mailed to the parties on June 10, 2011, not more than five (5) business days following the hearing, and will become final on June 15, 2011.

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

Dated: June 10, 2011



Kimberly M. Graves, Hearings Officer

KMG:jeg/rs

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Appeal Form page 2	Turner, Anna	Received
2	TriMet Fare Inspection System printout	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
7	6/9/11 letter from Kara Edge	Hume, Jacob C.	Received