



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF Mark Timothy Arlott

CASE NO. 3120290

[Police Bureau Case No. Unknown]

PARK: Waterfront Park

DATE OF HEARING: June 21, 2012

### APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Mark Timothy Arlott did not appear at the hearing or offer any evidence or testimony on his own behalf. No one appeared on behalf of the City. The Hearings Officer, on her own motion, admits Exhibits 1 through and including 4 into the evidentiary record.

The Hearings Officer finds that Mr. Arlott received the Notice of Exclusion from a City of Portland Park (Tom McCall Waterfront Park) that is subject to this case on May 30, 2012 at approximately 5:00 p.m. (Exhibit 2). Mr. Arlott received the Exclusion on May 30, 2012 for allegedly violating section 20.12.140-Animals of the Portland City Code (PCC).

The Exclusion indicates that Mr. Arlott, on May 30, 2012, violated Portland City Code ("PCC") 20.12.140 [Animals]. The Exclusion lists Waterfront Park as the City park from which Mr. Arlott would be excluded for 30 days. Mr. Arlott submitted a request for an appeal hearing (Exhibit 1).

PCC 20.12.140 [Animals] states, in part, that "no person owning, in control of or responsible for any dog shall allow that dog to be in any Park if the dog is not held securely on a leash..."

No one appeared on behalf of the city. No documents were submitted by the City.

Mr. Arlott did not appear at the hearing though stated on his Appeal request form, "If you knew my dog you would think she doesn't need a leash." Mr. Arlott submitted no other documentation or testimony.

The Hearings Officer finds that the evidence in the record is the documents admitted into the evidentiary record.

The Hearings Officer finds that the City has the burden to show by a preponderance of the evidence that the Notice of Exclusion was validly issued. The City has submitted no evidence to prove the validity of the Exclusion issued to Mr. Arlott on May 30, 2012. The Hearings Officer finds that the City has failed to meet its burden with respect to the Notice of Exclusion issued to Mr. Arlott on May 30, 2012 while at Waterfront Park.

The Hearings Officer finds that the Exclusion is not valid and therefore Mr. Arlott's appeal is granted.

**ORDER AND DETERMINATION:**

1. The Exclusion (Exhibit 1a) from Tom McCall Waterfront Park issued to Mark Arlott on May 30, 2012 is not valid; Mr. Arlott's appeal is granted.
2. This order has been mailed to the parties on June 25, 2012.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: June 25, 2012

KMG:c2/c1

Enclosure

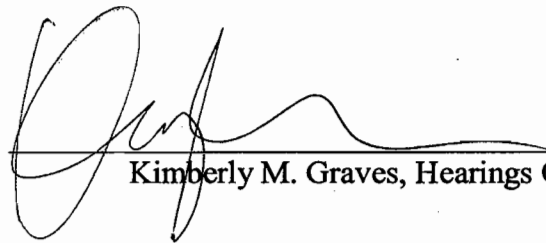
  
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Kimberly M. Graves, Hearings Officer

Exhibit #	Description	Submitted by	Disposition
1	Appeal Form page 1a	Complaint Signer's Office,	Received
2	Notice of Exclusion or Warning From City of Portland Park	Complaint Signer's Office,	Received
3	Mailing List	Hearings Office	Received
4	Notice of Hearing	Hearings Office	Received