



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

TriMet vs. Sakari Shirelle Martin

CASE NO. 3120281

(TriMet Exclusion Number 182004)

HEARING DATE: June 19, 2012

APPEARANCES:

Excluded Party did not appear

Deputy Jennifer Ciobanasiu, 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 Ms. Sakari Shirelle Martin on May 19, 2012. The case was forwarded to the City of Portland Hearings Office on May 29, 2012. The Hearings Office mailed a Notice of Hearing and Interim Order extending the stay on the exclusion to the parties on June 1, 2012, within the time prescribed in the TriMet Code. The notice contained the required information concerning Ms. Martin's rights in the hearing process.

Sufficiency of the Notice of Exclusion: A copy of the Notice of Exclusion was provided to Ms. Martin when she was excluded. The notice referenced the violating conduct/applicable code provision.

Stays: The exclusion was stayed on the Hearings Officer's direction on June 1, 2012.

Mitigating and/or Aggravating Factors: The excluded person threatened to use a weapon against law enforcement.

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. Deputy Ciobanasiu appeared and testified on behalf of TriMet. Deputy Ciobanasiu testified that on May 17, 2012 she was "holding a crime scene parameter" at the Holliday Park MAX platform when she heard six females talking about "shooting cops" and getting into a "shootout with the cops." Deputy Ciobanasiu testified that the female subjects were standing on the platform when they were talking and they were standing only feet

away from the deputy. Deputy Ciobanasiu testified that numerous MAX trains had come and gone from the platform while the females were standing there talking, and the females had not boarded any of the trains. Deputy Ciobanasiu testified that she could not leave her location at the crime scene, but that she told the females to leave the area or they would be given exclusions for non-transit use. Deputy Ciobanasiu testified that the females walked further down the platform to where she could no longer hear their conversation. Deputy Ciobanasiu testified that she left the area, and was not able to issue exclusions to the females. Deputy Ciobanasiu testified that she felt intimidated and harassed by the conduct of the females given that they were discussing harming or killing police officers while in close proximity to where she was standing. Deputy Ciobanasiu testified that two days later she saw three of the females riding a MAX train at the Gateway Transit Center. Deputy Ciobanasiu testified that she asked the females to exit the train and indicated to them that she had been the Deputy who they spoke with at the Holliday Park MAX platform. Deputy Ciobanasiu testified that one of the females was identified as Sakari Martin.

Ms. Martin received a Notice of Exclusion on May 19, 2012 for allegedly violating TMC 28.15D-Harassment/Intimidation. A person violates TMC 28.15 D if the person:

(a) While on a District platform or Vehicle, no person shall engage in harassment or intimidation through a course of conduct, including violent, threatening or disruptive behavior or conduct intended and likely to provoke a violent response, which places another person in reasonable fear of imminent physical harm, including, but not limited to following such person around or about the Vehicle or platform, or by preventing or delaying the movement or departure of such person through coercion or intimidation; or

Ms. Martin was mailed a Notice of Hearing on June 1, 2012 to two addresses. The Notices were returned by the U.S. Postal Service and Ms. Martin did not contact the Hearings Office prior to the hearing requesting that the hearing be rescheduled. Ms. Martin did not appear at the hearing. The Hearings Officer makes this decision based upon the testimony of Deputy Ciobanasiu and the exhibits admitted into the evidentiary record (Exhibits 1 through and including 6).

The Hearings Officer finds the testimony of Deputy Ciobanasiu to be credible and to accurately reflect the events leading up to the issuance of the Notice of Exclusion to Ms. Martin on May 19, 2012. The Hearings Officer finds it is more probable than not that on May 19, 2012, Ms. Martin violated TMC 28.15D by engaging in conduct which was violent and threatening in nature and placed another in fear of imminent physical harm while on TriMet property. The Hearings Officer finds the Notice of Exclusion issued to Ms. Martin on May 19, 2012 is valid.

Special Exceptions: The Hearings Officer finds there is no evidence in the record to suggest that Ms. Martin is disabled or transit dependent.

ORDER AND DETERMINATION:

1. Validity of the Notice of Exclusion:

The Hearings Officer sustains the Notice of Exclusion issued to Ms. Sakari Shirelle Martin on May 19, 2012.

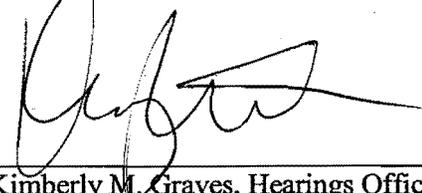
2. Length of the Exclusion:

The exclusion shall become effective with this Order, on June 27, 2012, and shall conclude on September 25, 2012.

3. Scope of the Exclusion:

The scope of the exclusion shall be as described in the Notice of Exclusion.

4. This order has been mailed to the parties on June 30, 2012, not more than five (5) business days following the hearing, and will become final on June 27, 2012.
5. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.



Dated: June 20, 2012

Kimberly M. Graves, Hearings Officer

KMG:c2/c1

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	Hearings Office	Hearings Office	Received
6	Statement of Rights	Hearings Office	Received