



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: www.portlandoregon.gov/auditor/hearings



HEARINGS OFFICER'S ORDER

TriMet vs. Katina Marie Marrapodi (AKA Katrina Marie Marrapodi)

CASE NO. 3120482

(TriMet Exclusion Number 179034)

HEARING DATE: October 9, 2012

APPEARANCES:

Ms. Katina Marrapodi, Excluded Party

Officer John Hughes, for 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. Marrapodi on September 22, 2012. The case was forwarded to the City of Portland Hearings Office on October 2, 2012. The Hearings Office mailed a Notice of Hearing to the parties on October 2, 2012, within the time prescribed in the TriMet Code. The notice contained the required information concerning Ms. Marrapodi's rights in the hearing process.

Sufficiency of the Notice of Exclusion: A copy of the Notice of Exclusion was provided to Ms. Marrapodi when she 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. Officer Hughes appeared and testified on behalf of TriMet. Officer Hughes testified that on September 22, 2012 he responded with Deputy Malazia to the Rose Quarter Transit Center to investigate an assault which occurred on a TriMet MAX train. Officer Hughes testified that TriMet supervisors were present at the Rose Quarter, and had identified Ms. Marrapodi as the suspect in the assault. Officer Hughes testified that he traveled to the NE 7th Ave. MAX stop to make contact with the victim. Officer Hughes testified that the victim told him

that Ms. Marrapodi boarded the MAX train at the Holiday Park/Lloyd Center MAX stop and that Ms. Marrapodi confronted her and began accusing her of "following her." Officer Hughes testified that the victim told him that she did not know Ms. Marrapodi and that she was not following her. Officer Hughes testified that the victim told him that she turned away from Ms. Marrapodi and that Ms. Marrapodi grabbed her face and told her to "look at me when I'm talking to you." Officer Hughes testified that the victim was visibly shaken and indicated that she had some transient pain when Ms. Marrapodi grabbed her face. Officer Hughes testified that the victim was traveling with a small child. Officer Hughes testified that the victim had exited at the NE 7th Ave stop to get away from Ms. Marrapodi, and called 911. Officer Hughes testified that Deputy Malazia talked to witnesses to the incident, but that he did not have the information obtained from the interviews. Officer Hughes testified that he contacted one witness, but that the witness left before he could take his statement. Officer Hughes testified that he requested the "data pack" from the train, but that he hasn't received it.

Ms. Marrapodi received a Notice of Exclusion on September 22, 2012 for allegedly violating TMC 28.15C-Criminal Activity by engaging in conduct constituting the crimes of Harassment under ORS 166.065 and Interfering with Public Transportation under ORS 166.116. 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 166.065 if the person intentionally harasses or annoys another person by subjecting such other person to offensive physical contact. A person violates ORS 166.116 if the person (1) knowingly enters or remains unlawfully in or on a public transit vehicle or public transit station, (2) knowingly interferes with the provision or use of public transportation services (i.e. interferes with the movement of a public transportation vehicle), (3) while on a public transit vehicle/station engages in disorderly conduct, or (4) subjects a public transportation passenger, employee, agent or security officer or transit police officer to offensive physical contact.

Ms. Marrapodi appeared at the hearing and stated that she boarded the MAX train in Gresham, and not at the Holiday Park/Lloyd Center stop. Ms. Marrapodi testified that she is a victim of domestic violence and has a restraining order against an ex-boyfriend. Ms. Marrapodi testified that the woman on the train is the current girlfriend of the man who she has a restraining order against. Ms. Marrapodi testified that the woman was harassing her on the train and threatening her. Ms. Marrapodi testified that the woman's conduct was in violation of the restraining order which prohibits 3rd party contact. Ms. Marrapodi testified that she "stood up and told the woman to leave me alone." Ms. Marrapodi testified that the woman ignored her and that "the rest of the officer's statement is correct." When asked, Ms. Marrapodi clarified and said that she grabbed the woman's arm, not her face. Ms. Marrapodi spoke at length about the history between herself and her ex-boyfriend. Ms. Marrapodi called Ms. Linda Wooden to testify on her behalf. The Hearings Officer found the testimony regarding Ms. Marrapodi's history with her ex-boyfriend to be irrelevant to the issuance of the Notice of Exclusion and indicated that it would not be considered when determining the validity of the Exclusion. The Hearings Officer also found Ms. Wooden's testimony to be irrelevant as it related to the history of the relationship, and not the conduct which occurred on TriMet property and led to the issuance of the Notice of Exclusion. Ms. Marrapodi also submitted a hand written note, Exhibit 7, regarding the history of her relationship with her ex-boyfriend and the woman on the train. The Hearings Officer found Exhibit 7 to be irrelevant and declined to enter it into the evidentiary record. Exhibits 1 through, and including, 6 were received into the record without objection.

The Hearings Officer finds the testimony of Officer Hughes to be credible and accurately reflects the events leading up to the issuance of the Notice of Exclusion issued to Ms. Marrapodi on September 22, 2012. The Hearings Officer finds it is more probable than not that on September 22, 2012 Ms. Marrapodi violated TMC 28.15C by engaging in conduct constituting the crime of Harassment when she grabbed the victim's face; subjected her to offensive physical contact. The Hearings Officer declines to make any findings with regard to ORS 166.116 Interfering with Public Transportation. The Hearings Officer finds the Notice of Exclusion issued to Ms. Marrapodi on September 22, 2012 is valid.

Special Exceptions: The Hearings Officer finds there is sufficient evidence in the record to suggest that Ms. Marrapodi is transit dependent. Ms. Marrapodi did not provide information prior to the end of the work day on the day of the hearing about any trips that she needs to take on TriMet during the exclusion. If Ms. Marrapodi does need access to TriMet during the term of the exclusion she can submit in writing to the Hearings Office a request for a Qualified Exclusion which contains the following information:

- Residence address
- Address for all locations the excluded party needs to access via TriMet
- Reasons trips are necessary (e.g., travel to and from medical and legal appointments, school or training classes, place(s) of employment, obtaining food, clothing and necessary household items, or for accessing any critical services)
- Days of week and time during the days when trips are expected to be made, including the particular bus line or Max line # to be utilized. Including the stops in which each line will be boarded and exited.

The Hearings Officer will make a determination, based upon the information supplied, which trips, if any, are trips of necessity

ORDER AND DETERMINATION:

1. Validity of the Notice of Exclusion:

The Hearings Officer sustains the Notice of Exclusion issued to Ms. Marrapodi on September 22, 2012.

2. Length of the Exclusion:

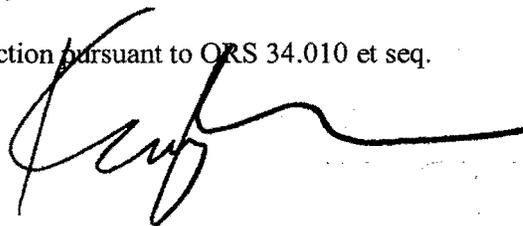
The exclusion shall become effective with this Order, on October 16, 2012, and shall conclude on December 15, 2012.

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 October 11, 2012, not more than five (5) business days following the hearing, and will become final on October 16, 2012.

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



Dated: October 11, 2012

Kimberly M. Graves, Hearings Officer

KMG:c2/ml

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	Notice of Hearing	Hearings Office	Received
6	Statement of Rights	Hearings Office	Received
7	Statement	Marrapodi, Katina	Rejected