



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

TriMet vs. Dwayne Leroy Daan

CASE NO. 3130149

(TriMet Exclusion Number 213510)

HEARING DATE: April 2, 2013

APPEARANCES:

Mr. Dwayne Leroy Daan, Excluded Party

Officer Anthony Cristofaro, 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 Mr. Dwayne Leroy Daan on March 22, 2013. The case was forwarded to the City of Portland Hearings Office on March 26, 2013. The Hearings Office mailed a Notice of Hearing to the parties on March 27, 2013, within the time prescribed in the TriMet Code. The notice contained the required information concerning Mr. Daan's rights in the hearing process.

Sufficiency of the Notice of Exclusion: A copy of the Notice of Exclusion was provided to Mr. Daan when he 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 Cristofaro appeared and testified on behalf of TriMet. Officer Cristofaro testified that on March 22, 2013 he was checking fares on a Blue line MAX train when he contacted Mr. Daan on the train. Officer Cristofaro testified that Mr. Daan had an Honored Citizen fare while riding the train, but did not have an Honored Citizen ID card. Officer Cristofaro testified that he issued an exclusion to Mr. Daan for the fare violation, but he told Mr. Daan he would request the exclusion be dismissed, if Mr. Daan appeared at the hearing

with a valid Honored Citizen ID card. Mr. Daan appeared at the hearing, but did not offer any testimony on his own behalf. Mr. Daan showed Officer Cristofaro a valid Honored Citizen ID card at the hearing. After testifying and viewing Mr. Daan's Honored Citizen ID card, Officer Cristofaro asked the Hearings Officer to dismiss the Notice of Exclusion issued on March 22, 2013. The Hearings Officer, finding Officer Cristofaro's request to be reasonable, dismissed the Notice of Exclusion issued to Mr. Daan on March 22, 2013.

ORDER AND DETERMINATION:

1. Validity of the Notice of Exclusion:

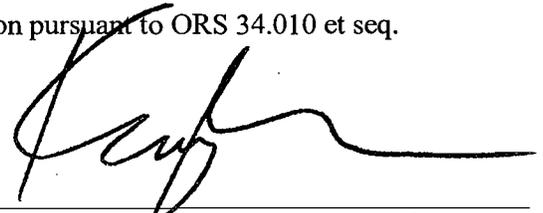
The Hearings Officer dismisses the Notice of Exclusion issued to Mr. Daan on March 22, 2013.

2. Length of the Exclusion:

The exclusion shall not become effective.

3. This order has been mailed to the parties on April 3, 2013, not more than five (5) business days following the hearing, and will become final on April 8, 2013.

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



Kimberly M. Graves, Hearings Officer

Dated: April 3, 2013

KMG:c2/m1

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Appeal Form page 2	Garmon, Anna	Received
2	TriMet Fare Inspection System printout	Garmon, Anna	Received
3	Notice of Exclusion	Garmon, Anna	Received
4	Mailing List	Hearings Office	Received
5	Notice of Hearing	Hearings Office	Received
6	Statement of Rights	Hearings Office	Received