

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF RAPHAEL GOODBLATT

CASE NO. 3110564

LOCATION: Commissioner Saltzman's Office, City Hall, 1221 SW 4th Avenue, Room 230,
Portland, Oregon

DATE OF HEARING: January 17, 2012

APPEARANCES:

Appellant did not appear

Mr. Jeff Baer, on behalf of the City

HEARINGS OFFICER: Ms. Kimberly M. Graves

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Goodblatt filed an Appeal to the City of Portland Hearings Officer, contesting the validity of a City Building Exclusion ("Exclusion"), on December 27, 2011 (Exhibits 1 and 2). Mr. Goodblatt listed his mailing address as "5010 SW Mitchell St., Port, Oregon 97221" (Exhibit 1). The Hearings Office mailed Mr. Goodblatt a Notice of Hearing ("Notice") on December 27, 2011 (Exhibit 6). The Notice set Mr. Goodblatt's appeal hearing for Tuesday, January 17, 2012, at 2:45 p.m. at Room 3000 on the 3rd floor, 1900 SW 4th Avenue, Portland, Oregon (Exhibit 6). The Notice also provided additional information regarding attendance, witnesses and requests for postponement (Exhibit 6).

Mr. Goodblatt, on January 13, 2012, appeared at the Hearings Office and submitted a handwritten request to have the January 17, 2012, hearing rescheduled (Exhibit 8). Mr. Goodblatt was informed by the Hearings Office staff that the request would be reviewed by a Hearings Officer and a determination would be made as to whether the hearing would be rescheduled. Mr. Goodblatt was told that he would not receive notice of whether the hearing was rescheduled, and that the onus was on him to contact the Hearings Office to find out whether his request had been granted or not. The request was reviewed on January 13, 2012, by a Hearings Officer. The Hearings Officer denied the request to reschedule the hearing because the handwritten request lacked sufficient detail by which the Hearings Officer could find "good cause" to reschedule the hearing. Mr. Goodblatt, after January 13, 2012, did not contact the

Hearings Office to find out whether his request to reschedule had been granted or denied. Mr. Goodblatt did not appear at the hearing. The Hearings Officer finds that Mr. Goodblatt had actual notice of the date and time for the appeal hearing, and that the notice provided by the Hearings Office is legally adequate.

Mr. Jeff Baer, Director of the Bureau of Internal Business Services for the City of Portland, appeared on behalf of the City of Portland ("City"). Brendan Finn, Chief of Staff for Commissioner Saltzman, Matt Grumm, Policy Manager for Commissioner Saltzman, and Crystine Jividen, Senior Legal Assistant for the Office of the City Attorney appeared at the hearing and testified on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Mr. Finn, Mr. Grumm and Ms. Jividen, the arguments of Mr. Baer and the documents admitted into the evidentiary record (exhibits 1 through and including 15).

Mr. Finn testified that he is the Chief of Staff for Commissioner Saltzman and on November 29, 2011, (Exhibit 3) he was returning to the Commissioner's office along with the Commissioner when he saw Mr. Goodblatt sitting on a bench outside of the Commissioner's office. Mr. Finn testified that Mr. Goodblatt made a comment to the Commissioner that the Commissioner responded to. Mr. Finn testified that Mr. Goodblatt then stood up, identified himself and attempted to start a conversation with the Commissioner. Mr. Finn testified that his office is familiar with Mr. Goodblatt because of a number of exchanges that have occurred between his office and Mr. Goodblatt. Mr. Finn testified that after Mr. Goodblatt identified himself, the Commissioner tried to "disengage" from the contact with Mr. Goodblatt. Mr. Finn testified that the Commissioner "made it known" to Mr. Goodblatt that he did not wish to talk with him. Mr. Finn testified that Mr. Goodblatt followed the Commissioner and himself into the area where the Commissioner's office is located. Mr. Finn testified that he had to physically place himself between Mr. Goodblatt and the Commissioner in order to stop Mr. Goodblatt's pursuit of the Commissioner. Mr. Finn testified that there was some physical contact between himself and Mr. Goodblatt when he stood in front of Mr. Goodblatt to block access to the Commissioner.

Mr. Grumm testified that he has had numerous contacts with Mr. Goodblatt over the past few months via email and over the telephone. Mr. Grumm stated that on November 29, 2011, Mr. Goodblatt appeared at his office without an appointment and wanted to meet with him. Mr. Grumm testified that he met with Mr. Goodblatt and that the conversation they had was rather "pointed." Mr. Grumm testified that Mr. Goodblatt called him "a name" as he exited the meeting. Mr. Grumm stated that the meeting took place just prior to Mr. Goodblatt's interaction with Mr. Finn and the Commissioner.

Ms. Jividen testified that Mr. Goodblatt had a meeting with the City Attorney which took place in the conference room at the City Attorney's office. Ms. Jividen testified that after the meeting, Mr. Goodblatt remained in the conference room and she was sent into the conference room to check on what Mr. Goodblatt was doing. Ms. Jividen testified that when she went into the conference room, Mr. Goodblatt "appeared very happy with himself." Ms. Jividen testified that Mr. Goodblatt told her that he had just recorded the conversation that he had had with the City Attorney, and that the City Attorney was unaware that he had been recorded.

Mr. Baer offered Exhibits 9 through, and including, 15 into the record for the Hearings Officer's consideration. Mr. Baer testified that he is both a Person-in-Charge as defined in Portland City Code ("PCC") 5.36.115 (Exhibit 10) and a designee of the Mayor based on the authority granted to him in Ordinance number 184536 (Exhibit 11). Mr. Baer testified that as Director of the Bureau of Internal

Business Services he is responsible for the development and enforcement of Rules of Conduct for City of Portland Buildings and he is authorized to exclude individuals from City buildings for violations of the Rules of Conduct (Exhibits 12 and 13). Mr. Baer testified that he believes Mr. Goodblatt is in violation of Rule of Conduct number 5 because he has engaged in conduct which disrupts or interferes with the normal operation or administration of City business. Mr. Baer testified that he believes Mr. Goodblatt is in violation of Rule of Conduct number 5 based on the acts described by the witnesses, as well as the conduct described in Exhibit 9; a letter to Mr. Goodblatt from the Bureau of Development Services dated October 10, 2011. The letter in Exhibit 9 indicates that Mr. Goodblatt has used derogatory language directed at the Director of the Bureau of Development Services, the Administrative Manager and the Public Information Officer for the City of Portland. The letter in Exhibit 9 also indicates that Mr. Goodblatt has engaged in aggressive and hostile communications with the Plan Review Section Manager. Mr. Baer testified that he issued the Exclusion to Mr. Goodblatt that is the subject of this appeal. Exhibit 3 is a copy of the Exclusion from City Properties issued by Mr. Baer and mailed to Mr. Goodblatt on December 20, 2011. The letter indicates that Mr. Goodblatt is "excluded from the following City of Portland properties: Commissioner Saltzman's Office, at Portland City Hall, located at 1221 SW 4th Avenue, Room 230, Portland, Oregon." The letter states that the Exclusion takes place "upon receiving this notice and remain for six (6) months or until such time the City rescinds them." The letter details restrictions, which are not the subject of this appeal, placed on Mr. Goodblatt by the City, in addition to the City Building Exclusion.

Mr. Goodblatt included a letter with his request for an appeal hearing (Exhibits 1 and 2). In his letter, Mr. Goodblatt asked why the exclusion letter from Mr. Baer was written 3 weeks prior to mailing, and what the "legal date" is for the start of the exclusion. Mr. Goodblatt also questioned whether the exclusion was stayed pending the hearing. In the final paragraph of Mr. Goodblatt's letter he writes, "My basis for appeal is that your exclusion letter is accusing me of breaking the law, but I have not been convicted of breaking the law. You can not punish me for something I have not actually committed. I do not agree with your descriptions of my behavior."

Mr. Goodblatt provided no other evidence for the consideration of the Hearings Officer in this case.

A City Building Exclusion may be issued under PCC 3.15.020B4b by a "Person-in-Charge" to "any person who violates any Rule of Conduct while in or upon any City building or property." A City Building Exclusion may be issued by a Person-in-Charge for a period of 24 hours. The Mayor, or a specifically identified designee of the Mayor, may issue an exclusion for any period of time up to and including permanent exclusion from City buildings. The Rules of Conduct for City of Portland Properties apply to the interior and exterior grounds of City of Portland properties. "City property" is defined in PCC 5.36.115D as "all real property either owned by the City or in which the City has a property interest." A person violates Rule of Conduct number 5 if a person, while on City property, engages in "conduct that disrupts or interferes with the normal operation or administration of City business." Examples of prohibited conduct include but are not limited to: disorderly conduct; harassment; intimidation; aggressive solicitation of money or other items of value; use of discriminatory, abusive or threatening language or gestures; fighting or provoking a fight; unreasonable noise; conduct with threatens or endangers the health, safety or well-being of any person; or loud or boisterous verbal or physical behavior that reasonably would expect to cause disruption, alarm of (sic) fear. This prohibition includes conveying harassing or threatening communications through the City's telecommunication systems."

Based upon the evidence in the record, the Hearings Officer finds that Mr. Baer is authorized to issue a City Building Exclusion under PCC 3.15.020 to persons who violate the Rules of Conduct for City Properties. The Hearings Officer finds that the 1900 Building which houses the Bureau of Development Services and City Hall are "City property" as defined in PC 5.36.115D. The Hearings Officer finds that between October 2011 and December 2011, Mr. Goodblatt engaged in conduct which was harassing, intimidating, and aggressive in nature, both in person and through the City's telecommunications system, which disrupted or interfered with the normal operation of City business. The Hearings Officer finds, based upon the evidence in the record, that there is a preponderance of evidence that it is more likely than not that Mr. Goodblatt, between October 2011 and December 2011, did violate the Rules of Conduct for City Properties, and that the issuance of the City Building Exclusion is appropriate based on Mr. Goodblatt's conduct.

The Hearings Officer finds that Mr. Goodblatt was mailed the Exclusion letter which is the subject of this hearing on December 20, 2011, and that the Exclusion letter was received on December 22, 2011 (Exhibit 2). Mr. Goodblatt filed his request for an appeal hearing on December 27, 2011. The Hearings Officer finds that the term of the Exclusion mailed to Mr. Goodblatt on December 20, 2011, is six (6) months. The Hearings Officer finds that the Exclusion went into effect upon receipt of the Exclusion letter on December 22, 2011, and that PCC 3.15.020 does not provide for a stay of the Exclusion pending an appeal hearing. The Hearings Officer finds that the Exclusion remains in effect and shall end at 4:30 p.m. on June 22, 2012.

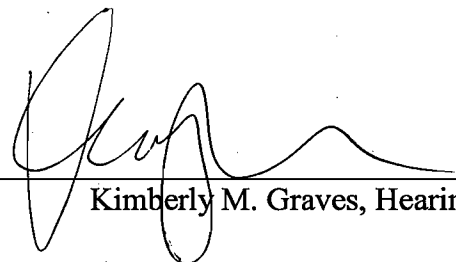
ORDER AND DETERMINATION:

1. The City Building Exclusion, as set forth in Exhibit 3, is valid; Mr. Goodblatt's appeal is denied.
2. The term of Mr. Goodblatt's exclusion from Commissioner Saltzman's Office shall remain in effect and end at 4:30 p.m. on June 22, 2012.
3. This order has been mailed to the parties on January 24, 2012.

Dated: January 24, 2012

KMG:rs

Enclosure



Kimberly M. Graves, Hearings Officer

Exhibit #	Description	Submitted by	Disposition
1	Appeal Form page 1	Goodblatt, Raphael	Received
2	12/27/11 Letter from Raphael Goodblatt	Goodblatt, Raphael	Received
3	12/1/11 Letter from Jeffrey B. Baer	Goodblatt, Raphael	Received
4	Copy of envelope from OMF	Goodblatt, Raphael	Received
5	Mailing List	Hearings Office	Received
6	Hearing Notice	Hearings Office	Received
7	Subpoena (copy)	Hearings Office	Received
8	Request to reschedule	Goodblatt, Raphael	Received
9	10/10/11 Letter from Peterson to Goodblatt	Baer, Jeffrey B.	Received
10	5.35.115 Designation of "Persons in Charge"	Baer, Jeffrey B.	Received
11	Ordinance 184539	Baer, Jeffrey B.	Received
12	3.15.020 Bureau of Internal Business Services	Baer, Jeffrey B.	Received
13	Rules of Conduct for City of Portland Properties	Baer, Jeffrey B.	Received
14	Email string	Baer, Jeffrey B.	Received
15	Investigation Report	Baer, Jeffrey B.	Received