



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

APPEAL OF AMIR FAR

CASE NO. 3120160

[Revenue Bureau Case No. C 10494]

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

On March 20, 2012, the Hearings Office received an Appeal to the City of Portland Hearings Officer from the Revenue Bureau on behalf of Amir Far. The Hearings Officer reviewed the documents and found that City determination that is subject to this appeal is dated November 28, 2011 (Exhibit 6). The Hearings Officer found the written request for a hearing, from Amir Far, was dated as received in the Revenue Bureau on March 12, 2012 (Exhibits 1, 1a, and 2). Portland City Code ("PCC") 22.10.030 Initiation of Appeal, Section A, reads, in relevant part:

"...unless otherwise specified in this Code, a request for an appeal hearing shall be filed within 10 days after the date of the decision or determination. The Code Hearings Officer may waive this requirement for good cause shown."

The Hearings Officer finds that the City mailed the determination letter (Exhibit 6) to Mr. Far. The Hearings Officer finds that Amir Far, filed a request for an appeal hearing related to the November 28, 2011, determination beyond the 10 days provided in PCC 22.10.030.

The Hearings Officer finds that the determination letter (Exhibit 6) was mailed to Mr. Far by United States Postal Service Certified Mail. In his Staff Report (Exhibit 4), Regulatory Program Administrator Frank Dufay describes this process:

On November 28, 2011 we sent a penalty letter to Mr Far for this violation. (Exhibit) While the certified letter was returned as 'unclaimed', we also received a copy of the Return Receipt for that letter. (Exhibit) The penalty letter sent regular mail was not returned.

The Revenue Bureau submitted the corresponding envelope with certified notation and postal marking (Exhibit 7). The Hearings Officer finds the City took appropriate steps to notify Mr. Far of its findings.

In his hand-written letter requesting a hearing (Exhibit 1a), Mr. Far provides two reasons for his tardy appeal request: he states that he was out of the country until February 1, 2012, and he states that he was

awaiting a police report before submitting his appeal. The Hearings Officer weighed these arguments and reviewed the evidence of international travel submitted by Mr. Far (Exhibit 3). The Hearings Officer does not find that good cause was shown, as set out in PCC 22.10.030.

The Hearings Officer finds that the request for an appeal hearing (Exhibits 1, 1a, and 2) regarding the determination letter (Exhibit 6) was not submitted timely and the request for the appeal hearing should be denied.


ORDER AND DETERMINATION:

1. The written request (Exhibits 1, 1a, and 2) of Mr. Far, for an appeal hearing related to the determination letter (Exhibit 6) is denied.
2. This order has been mailed to the parties on March 21, 2012.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: March 21, 2012

GJF:rs

Enclosure



Gregory J. Frank, Hearings Officer