



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S INTERIM ORDER

APPEAL OF HAROLD FOX

CASE NO. 3110105

[Police Bureau Case No. 11-16832]

PARK: Pioneer Courthouse Square

DATE OF HEARING: April 7, 2011

APPEARANCES:

Mr. Harold Fox, Appellant

Officer Oliphant, for the City

HEARINGS OFFICER: Ms. Kimberly M. Graves

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

On April 4, 2011, Mr. Fox called the Hearings Office to request that his hearing be rescheduled. Mr. Fox was informed that the request to reschedule must be submitted in writing by himself or his attorney. A written request from Attorney Audra Kaleta was received on April 5, 2011 indicating that she represents Mr. Fox in a criminal matter and that she joins Mr. Fox in his request to have his park exclusion hearing reset. The letter does not indicate any future date which Ms. Kaleta or Mr. Fox believes would be more appropriate for the park exclusion hearing.

On April 6, 2011, a voicemail message was left for Ms. Kaleta indicating that the request to reset the hearing was denied because the request did not include sufficient information for the Hearings Officer to determine whether a set over was appropriate. Ms. Kaleta was informed that she could appear at the hearing and renew her request.

On April 7, 2011, Mr. Fox appeared for his hearing without an attorney. Mr. Fox indicated that his attorney informed him that the request to reset was denied and that the hearing would proceed as scheduled. Mr. Fox indicated that he would prefer to have the case reset, because it didn't seem like a good idea to be discussing facts in this hearing that will be at issue in his criminal case. The Hearings

Officer inquired about the status of Mr. Fox's criminal case. Mr. Fox advised that he had been charged with one count of Harassment, and two counts of Criminal Trespass. Mr. Fox indicated that he had already had his initial arraignment, and was scheduled for a status hearing on April 22, 2011. Mr. Fox indicated that the trial date is currently set for May 3, 2011.

Portland City Code 22.10.040 provides in section A that an appeal hearing shall be held within 30 days after the receipt of such request. Section C allows the Hearings Officer to extend the time for the hearing for "good cause" shown. Mr. Fox's criminal case and the park exclusion case are closely related having arisen out of the same alleged conduct. Because the consequences in the criminal case outweigh the consequence in the park exclusion case, the Hearings Officer finds good cause to extend Mr. Fox's park exclusion hearing for a brief time to allow Mr. Fox the opportunity to resolve his criminal case prior to providing sworn testimony in the park exclusion hearing.

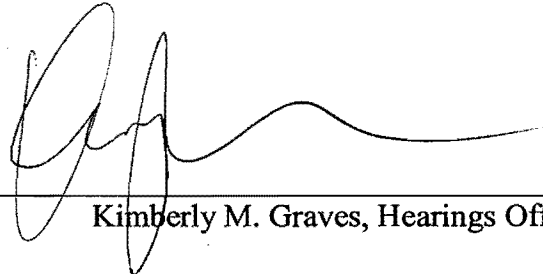
ORDER AND DETERMINATION:

1. The park exclusion appeal hearing of Harold Fox scheduled for April 7, 2011 has been rescheduled to May 12, 2011 at 4:00 p.m.
2. This Interim Order has been mailed to the parties on April 8, 2011.
3. This Interim Order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: April 8, 2011

KMG:rs

Enclosure

A handwritten signature in black ink, appearing to read 'Kimberly M. Graves', is written over a horizontal line.

Kimberly M. Graves, Hearings Officer