

# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

### APPEAL OF SAUL ORDONEZ

CASE NO. 3110478

[Police Bureau Case No. 11-91023]

PROPERTY: City of Portland Parking Garages – 621 SW 3rd

DATE OF HEARING: November 10, 2011

### APPEARANCES:

Mr. Saul Ordonez, Appellant

The City did not appear

HEARINGS OFFICER: Ms. Kimberly M. Graves

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Ordonez submitted an Appeal form, Exhibit 1, regarding the Notice of Exclusion From City of Portland Parking Garages ("Exclusion," Exhibit 8), which he received on October 14, 2011. Mr. Ordonez appeared at the scheduled hearing and testified on his own behalf. No one appeared on behalf of the City.

Mr. Ordonez, in his Appeal form, writes,

"I disagree with the exclusion because I was not doing anything reckless or dangerous to myself or others. My reason for being on the rooftop of the Smart Park garage was that my friends Nick Braun, Dylan Barnett and I were sight-seeing downtown Portland and just looking for a good view. I was unaware that there were rules prohibiting persons from being in the structure without a vehicle."

At the hearing, Mr. Ordonez testified that he and his friends had ridden their bikes downtown and wanted to view the city at night. Mr. Ordonez testified that he was unaware that a car was needed to be on top of the garage. Mr. Ordonez indicated that while they were on top of the garage, they were contacted by security officers from Portland Patrol Inc. (PPI). Mr. Ordonez testified that the security

officers asked whether he and his friends had a vehicle in the garage. Mr. Ordonez testified that they told the security officers that they did not, and they were issued exclusions.

The City submitted Exhibits 8 and 10 regarding the Exclusion issued to Mr. Ordonez on October 14, 2011. Exhibit 8 is a copy of the Notice of Exclusion From City of Portland Parking Garages which lists the conduct leading to issuance of the Exclusion as "Unauthorized Entry." The summary portion of the report reads, "In garage without a vehicle." The Exclusion indicates that Mr. Ordonez was in a City of Portland Parking Garage located at 621 SW 3<sup>rd</sup> when the Exclusion was issued. Exhibit 10 is an Incident Report from PPI regarding the Exclusion issued to Mr. Ordonez. The report indicates that on October 14, 2011, at 8:33 p.m., two PPI security officers were patrolling the "Smart Park" garage located at 621 SW 3<sup>rd</sup> when they observed three male subjects in the garage. The PPI officers asked the subjects whether they had a vehicle in the garage, and the subjects replied "no." The PPI officers informed the subjects that it was unlawful to be in the garage without a vehicle. The subjects provided the PPI officers with identifications. One subject was identified as Saul Ordonez.

The Hearings Officer finds that the evidence in the record consists of the exhibits entered into the record. The Hearings Officer admitted Exhibits 1 through, and including, 12 into the evidentiary record on her own motion.

Portland City Code ("PCC") section 16.20.900 B states that, "Any Person in Charge may exclude any person who violates any Rule of Conduct while in or upon any City Parking Garage, from all City Parking Garages for a period of 180 days." PCC section 16.20.900 C provides a list of the Rules of Conduct applicable to City-owned parking garages. PCC section 16.20.900 C 2 states, "No person shall enter or remain for any purpose other than to park or retrieve a motor vehicle or do business with a City parking garage retail tenant."

The Hearings Officer finds that there is no material conflict between the factual information testified to by Mr. Ordonez at the hearing, and the information provided by the City in Exhibit 10. The Hearings Officer finds that on October 14, 2011, Mr. Ordonez was in a City of Portland Parking Garage without a vehicle.

The Hearings Office finds, based upon the evidence in the record, that it is more probable than not that Mr. Ordonez's conduct on October 14, 2011, in a City of Portland parking garage, was in violation of #2 of the Rules of Conduct. The Hearings Officer finds that the Exclusion issued to Mr. Ordonez on October 14, 2011, is valid.

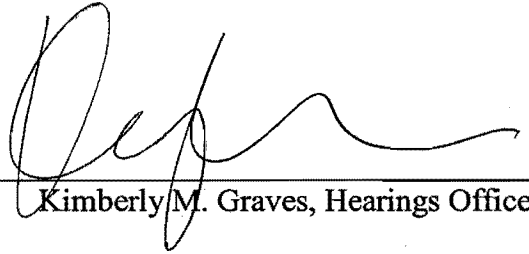
#### ORDER AND DETERMINATION:

1. The Notice of Exclusion From City of Portland Parking Garages issued on October 14, 2011, (Exhibit 3) is valid; Mr. Ordonez's appeal is denied.
2. The term of the exclusion began on October 14, 2011, and shall conclude at 4:30 p.m. on April 11, 2012.
3. This order has been mailed to the parties on November 15, 2011, and shall become effective immediately.

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

Dated: November 15, 2011

KMG:rs



Kimberly M. Graves, Hearings Officer

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Appeal form page 1a	Complaint Signer's Office,	Received
1a	Notice of Exclusion From City of Portland Parking Garages	Complaint Signer's Office,	Received
2	Appeal form page 2	Complaint Signer's Office,	Received
3	Appeal form page 1a - Nick Braun	Complaint Signer's Office,	Received
4	Notice of Exclusion From City of Portland Parking Garages - Nicholas Michael Braun	Complaint Signer's Office,	Received
5	Appeal form page 1a - Dylan Barnett	Complaint Signer's Office,	Received
6	Notice of Exclusion From City of Portland Parking Garages - Dylan Thomas Barnett	Complaint Signer's Office,	Received
7	Notice of Exclusion From City of Portland Parking Garages - Dylan Thomas Barnett	Complaint Signer's Office,	Received
8	Notice of Exclusion From City of Portland Parking Garages	Complaint Signer's Office,	Received
9	Notice of Exclusion From City of Portland Parking Garages - Nicholas Michael Braun	Complaint Signer's Office,	Received
10	Portland Patrol Incident Report	Complaint Signer's Office,	Received
11	Mailing List	Hearings Office	Received
12	Hearing Notice	Hearings Office	Received