



CITY OF PORTLAND

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Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF ANGIE GWEN HALLANGER

CASE NO. 3110482

[Police Bureau Case No. 11-92799]

PARKS: Chapman Square
Lownsdale Square

DATE OF HEARING: November 10, 2011

APPEARANCES:

Appellant did not appear

Officer Dan Spiegel, on behalf of the City

HEARINGS OFFICER: Ms. Kimberly M. Graves

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Ms. Hallanger did not appear at the hearing or testify on her own behalf. Officer Dan Spiegel appeared on behalf of the City. The Hearings Officer admits Exhibits 1 through and including 4 into the evidentiary record on her own motion. Officer Spiegel offered Exhibits 5 through, and including, 7 into the record, which the Hearings Officer entered without objection.

Ms. Hallanger submitted a written request for an appeal hearing on October 26, 2011. (Exhibit 1) On the Appeal form is an address provided by Ms. Hallanger. A Notice of Hearing was mailed to the address provided by Ms. Hallanger on October 31, 2011. The Hearing Notice was not returned by the U.S. Postal Service. Ms. Hallanger did not personally contact the Hearings Office at any time prior to the Hearing. On November 10, 2011, at approximately 2:00 p.m. a fax was received at the Hearings Office. (Exhibit 5) The fax was received approximately 1 hour and 45 minutes prior to the start of the Hearing. The fax was signed by an unknown medical doctor and indicated that Ms. Hallanger was hospitalized beginning on November 5, 2011, and had an undetermined discharge date. The fax was on letterhead from the Sutter Medical Center located in Sacramento, California. The fax did not specifically request that the hearing be rescheduled, nor did it provide a date in the future in which Ms. Hallanger would be available for a hearing. The Hearings Officer declines to reschedule the hearing due

to the lateness of the fax, and the lack of any clear direction as to how Ms. Hallanger would like the Hearings Office to proceed.

The Hearings Officer finds that Ms. Hallanger received the Notice of Exclusion ("Exclusion") from two City of Portland Parks (Lownsdale Square and Chapman Square), which is the subject of this case, on October 24, 2011, at approximately 3:00 p.m. (Exhibit 2). The Exclusion lists Lownsdale Square and Chapman Square as the City parks from which Ms. Hallanger would be excluded for 30 days. The Exclusion listed violations of ORS 166.025-Disorderly Conduct and ORS 164.345-Criminal Mischief in the 3rd Degree as the basis for the issuance of the Exclusion.

ORS 166.025 provides that a person commits the crime of Disorderly Conduct in the second degree if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, the person (a) Engages in fighting or in violent, tumultuous or threatening behavior; . . . (g) Creates a hazardous or physically offensive condition by any act which the person is not licensed or privileged to do. ORS 164.345 provides that a person commits the crime of Criminal Mischief in the 3rd Degree if, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that the person has such right, the person tampers or interferes with property of another. Portland City Code (PCC) 20.12.265A provides, "In addition to other remedies provided for violation of this Code, or of any of the laws of the State of Oregon, any Park Officer may exclude any person who violates any applicable provision of law in any Park from that park in accordance with the provisions of this section." PCC 20.12.265B defines "applicable provision of law" as including "any applicable criminal or traffic law of the State of Oregon." PCC 20.12.265C provides that "an exclusion issued under the provisions of this Section shall be for thirty (30) days."

Ms. Hallanger, in her handwritten appeal form (Exhibit 1), indicates that she disagrees with the exclusion order because "I was on the street painting and James Escobar was very cute and adorable. I was only flirting and I got some paint on his leg. I truly am sorry and will write him an apology letter, but he walked thru my art project." Ms. Hallanger did not submit any other information regarding the Exclusion she received on October 24, 2011.

The City did not submit any documentation prior to the hearing. Officer Spiegel appeared and testified regarding the Exclusion issued to Ms. Hallanger on October 24, 2011. Officer Spiegel submitted documents regarding the Exclusion at the conclusion of his testimony. (Exhibits 5 through, and including, 7) Officer Spiegel testified that on October 24, 2011, Officer Honl and Officer Escobar encountered Ms. Hallanger on the NE corner of Chapman Square; a park located within the City of Portland. Officer Spiegel testified that when the officers first observed Ms. Hallanger she was pointing a paintbrush at them. Officer Spiegel described Ms. Hallanger as holding the brush with two hands, with her arms extended out in front of her in a "shooting stance." Officer Spiegel testified that Ms. Hallanger told the officers to "freeze." Officer Spiegel testified that the officers told Ms. Hallanger to stop what she was doing, and Ms. Hallanger asked the officers if they wanted to see her "painting." Officer Spiegel testified that the officers told Ms. Hallanger that they did not want to see her painting, and that Ms. Hallanger responded by throwing her paintbrush at the officers. The brush struck Officer Escobar in the leg and left paint on his pants. Officer Spiegel testified that it cost \$12-15 to have the pants cleaned. Officer Spiegel testified that after throwing the brush, Ms. Hallanger ran off into the park. Ms. Hallanger returned a short time later and threw the brush at the officers again, this time with more force. Ms. Hallanger then ran back into the park again. At this point, Officer Spiegel testified, officers were summoned to take Ms. Hallanger into custody. Officer Spiegel testified that Ms.

Hallanger was released from custody shortly after her arrest. Officer Spiegel testified that he learned that Ms. Hallanger had not been excluded for her conduct in the park, and he returned to the park to locate her and issue an exclusion. Officer Spiegel testified that when he returned to the park he learned that Ms. Hallanger was now in Lownsdale Square exposing her breasts to passersby. Officer Spiegel stated that he observed Ms. Hallanger from the SW corner of the park while she was standing within Lownsdale Square. Officer Spiegel testified that Ms. Hallanger looked his direction, raised her shirt, and began shaking her body while exposing her breasts to him. Officer Spiegel testified that he contacted Ms. Hallanger and removed her from the park. Officer Spiegel testified that he issued the exclusion to Ms. Hallanger that is the subject of the hearing. Officer Spiegel indicated that he believed Ms. Hallanger had violated ORS 166.025-Disorderly Conduct and ORS 164.345-Criminal Mischief in the 3rd Degree while in Chapman Square, and that she had violated ORS 166.025 again while in Lownsdale Square.

The Hearings Officer finds that the evidence in the record is the testimony of Officer Spiegel, and the documents admitted into the evidentiary record.

The Hearings Officer finds Officer Spiegel's testimony to be credible, and accurately reflects the conduct of Ms. Hallanger that led to the issuance of the Exclusion on October 24, 2011. The Hearings Officer finds that on October 24, 2011 it is more probable than not that Ms. Hallanger violated ORS 166.025-Disorderly Conduct while within Chapman Square by engaging in violent, tumultuous and/or threatening behavior. The Hearings Officer finds that on October 24, 2011, it is more probable than not that Ms. Hallanger violated ORS 166.025-Disorderly Conduct while in Lownsdale Square by creating a physically offensive condition. The Hearings Officer finds that under PCC 20.12.265A, Exclusion is the appropriate remedy for a person who has committed a criminal act within a City of Portland park.

The Hearings Officer finds that the Exclusion issued to Ms. Hallanger on October 24, 2011 is valid and therefore Ms. Hallanger's appeal is denied.

The Exclusion was issued to Ms. Hallanger on October 24, 2011, and Ms. Hallanger filed her appeal on October 26, 2011. PCC 20.12.265H provides that the effectiveness of the exclusion shall be stayed upon timely filing of an appeal. The Hearings Officer finds that the Exclusion was stayed upon filing of the appeal on October 26, 2011. The term of the Exclusion is for 30 days, less the 2 days prior to the filing of the appeal. The Hearings Officer finds that a stay of the Exclusion has been in effect since October 26, 2011. The Hearings Officer finds that the stay shall terminate immediately at which time the Exclusion term shall begin and run until 4:30 p.m. on December 8, 2011.

ORDER AND DETERMINATION:

The Exclusion issued to Ms. Hallanger on October 24, 2011, is valid and therefore, Ms. Hallanger's appeal is denied.

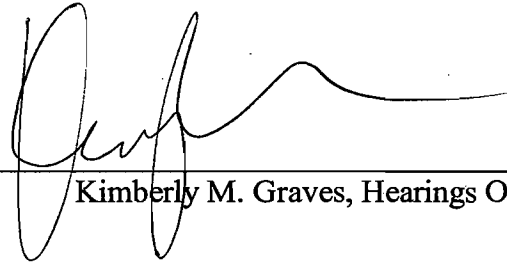
The stay of the notice pending hearing shall terminate immediately, at which time, the Exclusion shall go into effect and continue until 4:30 p.m. on December 8, 2011.

This order has been mailed to the parties on November 18, 2011.

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

Dated: November 18, 2011

KMG:rs/jeg



Kimberly M. Graves, Hearings Officer

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Appeal form page 1a	Complaint Signer's Office,	Received
2	Notice of Exclusion or Warning From City of Portland Park	Complaint Signer's Office,	Received
3	Mailing List	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Letter from Sutter Medical Center, Sacramento	Hallanger, Angie Gwen	Received
6	Investigation Report	Spiegel, Dan	Received
7	Custody Report	Spiegel, Dan	Received