



CITY OF PORTLAND

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HEARINGS OFFICER'S ORDER

APPEAL OF HALEY UHALDE (AKA HALEY UNHALDE)

CASE NO. 3110548

DATE OF HEARING: December 22, 2011

APPEARANCES:

Officer Susan Billard, for the City

Appellant did not appear

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Ms. Haley Uhalde, AKA Haley Unhalde ("Uhalde"), was sent a Notice of Hearing (Exhibit 16) on December 9, 2011. The Notice of Hearing was sent to the address provided by Uhalde in her written request for a hearing (Exhibit 1). The Notice of Hearing provided Uhalde with the date/time/place of the scheduled hearing. The Notice of Hearing also described the process/procedure for Uhalde to request a rescheduled hearing. Uhalde did not contact the City of Portland Hearings Office after the date the Notice of Hearing was mailed. Uhalde did not appear at the hearing. Portland Police Officer Billard ("Billard") appeared at the hearing as a representative for the City. Billard also testified on behalf of the City. Mr. Art Hendricks ("Hendricks") appeared at the hearing as a witness for the City. The Hearings Officer makes this decision based upon the testimony of Billard and Hendricks and the documents admitted into the evidentiary record (Exhibits 1 through and including 17).

Uhalde received a Notice of Exclusion from a City of Portland Park on December 5, 2011 (Exhibit 7). Exhibit 7 indicates that Uhalde was excluded from the South Park Blocks Park for violating Portland City Code ("PCC") 14A.50.020 (Camping), PCC 20.12.240 (Follow directions of Park Officer) and Oregon Revised Statutes ("ORS") 166.025 (Disorderly Conduct). A person violates PCC 14A.50.020 if the person camps (per definitions in PCC 14A.50.020) on public property unless authorized by PCC or the Mayor of the City. A person violates PCC 20.12.240 if the person fails to follow a reasonable directive from a City officer. A person violates ORS 166.025 if the person recklessly engages in

fighting, violent, tumultuous or threatening behavior or the person creates a hazardous/physically offensive condition.

Uhalde, in her request for an appeal hearing (Exhibit 1), states the reason she disagreed with the Notice of Exclusion (Exhibit 7) was "I was not doing anything illegal. I was just standing around when harassed by officers."

Billard testified that on December 5, 2011, at approximately 9:00 a.m., she received direction from a City Park Ranger to contact persons in the South Park Blocks (specifically the block bounded by SW Main and SW Salmon – hereafter referred to as "Shemanski Square") and obtain identification for the purposes of issuing park exclusion warnings. Billard stated that the park exclusion warnings were related to certain persons camping overnight at Shemanski Square.

Billard stated she contacted Uhalde and requested Uhalde to provide identification information for the purposes of the Park Ranger completing a park exclusion warning form. Billard stated that during her contact with Uhalde, Uhalde jumped off a 2 foot high wall onto Billard and engaged in fighting and screaming actions. Billard stated that Uhalde's actions placed her in fear of her physical safety. Billard stated she is still recovering from injuries suffered during Uhalde's attack of Billard on December 5, 2011.

Hendricks testified that he is a City Park Ranger. Hendricks stated that on December 5, 2011, at approximately 6:30 a.m., he received a call from Park Ranger Nelson ("Nelson"). Hendricks stated that he was informed by Nelson that a number of persons were at Shemanski Square in sleeping bags. Hendricks stated that Nelson informed him that he had attempted to contact one or more of the persons who were in Shemanski Square to inform them that camping was not allowed. Hendricks stated that Nelson told him that one or more of the persons at Shemanski Square placed him in fear of bodily injury and that Nelson had retreated to a safe location. Hendricks stated that later in the morning he entered Shemanski Square and observed Uhalde on the ground in sleeping bag. Hendricks stated he informed Uhalde that they had been camping in a City park and that he was going to issue a park exclusion warning. Hendricks stated that Uhalde stood up and started to move away. Hendricks stated that he requested police assistance to obtain Uhalde's identification information so that he could complete a park exclusion warning.

The Hearings Officer finds Uhalde's written statement does not specifically address whether or not she refused to give identification information to a Park Ranger. The Hearings Officer finds that Uhalde's written statement does not specifically address whether or not she engaged in an altercation with Billard.

The Hearings Officer finds the testimony of Billard and Hendricks to be credible. The Hearings Officer finds the testimony of Billard and Hendricks to accurately reflect the events occurring prior to the issuance of the Notice of Exclusion from a City Park (Exhibit 7). The Hearings Officer finds that Uhalde was in Shemanski Square in a sleeping bag when contacted by Hendricks. The Hearings Officer finds that Hendricks's request for Uhalde's identification information, for the purposes of issuing a park exclusion warning related to camping, was a reasonable directive from a Park Officer. The Hearings Officer finds that Uhalde initiated a physical altercation with Billard. The Hearings Officer finds that Uhalde's physical altercation with Billard is fighting, tumultuous and threatening behavior. The Hearings Officer finds Uhalde's physical altercation with Billard placed Billard in fear of her physical

safety. The Hearing Officer finds, by a preponderance of the evidence in the record, that it is more likely than not that Uhalde, on December 5, 2011, did violate PCC 20.12.240 and ORS 166.025.

The Hearings Officer finds that there is insufficient evidence in the record to determine if Uhalde violated PCC 14A.50.020.

The Hearings Officer finds that the Notice of Exclusion from a City Park (Exhibit 7) was issued on December 5, 2011, and that Uhalde filed a request for an appeal hearing on December 5, 2011. The Hearings Officer finds the term of the Notice of Exclusion from the South Park Blocks Park is for 30 days.

The Hearings Officer finds the Notice of Exclusion from a City Park (Exhibit 7) is valid.

ORDER AND DETERMINATION:

1. The Notice of Exclusion from a City Park (South Park Blocks) issued to Ms. Haley Uhalde on December 5, 2011, is valid; Uhalde did not prevail in this appeal.
2. The stay on the exclusion shall end on December 27, 2011. The term of the exclusion from the South Park Blocks shall begin on December 27, 2011, and end at 4:30 p.m. on January 25, 2012.
3. This order has been mailed to the parties on December 27, 2011.
4. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: December 27, 2011

GJF:rs

Enclosure



Gregory J. Frank, Hearings Officer

Exhibit #	Description	Submitted by	Disposition
1	Appeal form page 1a	Complaint Signer's Office,	Received
1a	Notice of Exclusion or Warning From City of Portland Park	Complaint Signer's Office,	Received
2	Appeal form page 2	Complaint Signer's Office,	Received
3	Special Report	Complaint Signer's Office,	Received
4	Custody Report by Officer Billard	Complaint Signer's Office,	Received
5	Special Report by Officer Crooker	Complaint Signer's Office,	Received
6	Special Report by Officer Dobson	Complaint Signer's Office,	Received
7	Notice of Exclusion or Warning From City of Portland Park	Complaint Signer's Office,	Received
8	Special Report by Officer Doran	Complaint Signer's Office,	Received
9	Special Report by Officer Harrison	Complaint Signer's Office,	Received
10	Notice of Exclusion or Warning From City of Portland Park - Carsen Jean Harrison-Bower	Complaint Signer's Office,	Received
11	Notice of Exclusion or Warning From City of Portland Park - Jordan Levi Benning	Complaint Signer's Office,	Received
12	Notice of Exclusion or Warning From City of Portland Park - Keller Dean Henry	Complaint Signer's Office,	Received
13	Notice of Exclusion or Warning From City of Portland Park - Clifford C. Collins	Complaint Signer's Office,	Received
14	Special Report by Ranger K.R. Nelson	Complaint Signer's Office,	Received
15	Mailing List	Hearings Office	Received
16	Hearing Notice	Hearings Office	Received
17	Special Report	Hendricks, Art	Received