



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY AUDITOR
Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF ROBIS J. MARKS

CASE NO. 1100035

DESCRIPTION OF VEHICLE: Chan/LR Trailer (OR U404715)

DATE OF HEARING: February 18, 2010

APPEARANCES:

Mr. Robis Marks, Appellant

HEARINGS OFFICER: Ms. Christina A. Austin-Smith

Mr. Marks appeared at the hearing and testified on his own behalf. No person appeared on behalf of the City. The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes the testimony of Mr. Marks and the documents admitted into evidence (Exhibits 1 through and including 8).

Mr. Marks testified that after coming home from work at Mt. Hood on February 3, 2010, he found his food kiosk trailer had been stolen. Mr. Marks stated he reported the trailer as stolen to the police and gave the officer two contact phone numbers if the trailer was found, his cell phone and his girlfriend's phone number. Mr. Marks explained that he works on Mt. Hood and is hard to contact, so he hoped his girlfriend would also be called and had made arrangements for a friend to retrieve the trailer if found. On February 5, 2010, the trailer was found by the police department and Mr. Marks was unavailable on his cell phone because he was on Mt. Hood. He stated his girlfriend was contacted on February 6, 2010, and told the trailer had been recovered and towed. Mr. Marks contends that if his girlfriend had also been called on Feb. 5 as he had requested, then the trailer would not have needed to be towed. Mr. Marks made clear he was very happy with how quickly the police responded and recovered his trailer and was only upset with having to pay for the tow since he had provided an alternate contact number.

Exhibits 6 and 7 were submitted by the Portland Police Bureau and are reports of the trailer having been stolen and recovered. Officer Kristi Gustafson responded to Mr. Marks' report of a stolen trailer on February 3, 2010, at 2:30 p.m. On February 5, 2010, Officer Jones responded to a call about a suspicious trailer parked on NE 49th Avenue. Officer Jones identified this as the trailer Mr. Marks had reported stolen. Officer Jones stated "I attempted to contact owner, but his cell phone was 'unavailable.'" Accordingly, he had the trailer towed.

The Hearings Officer must find a tow is valid if the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules can be found in the Portland City Code ("PCC") Title 16. PCC 16.30.210A5 permits a vehicle to be towed when in the public right-of-way and the vehicle has been reported as stolen. PCC

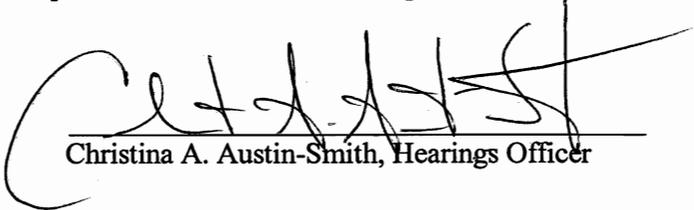
16.30.220F authorizes the officer to have the vehicle towed without prior notice if the officer “reasonably believes that the vehicle is stolen.” Portland Police Bureau Administrative Rule 630.60 indicates a police officer may wait a reasonable time (usually 30 minutes) for the owner to come and release the vehicle after verifying proof of ownership.

The Hearings Officer finds that on February 3, 2010, Mr. Marks filed a stolen vehicle report (a trailer) with the Police Bureau. On February 5, 2010, an officer located the stolen trailer and did attempt to notify Mr. Marks using his cell phone number. Because Mr. Marks was unavailable, the officer had the trailer towed. While it is clear Mr. Marks did make alternate provisions if he was unavailable, as evidenced by the fact that his girlfriend was in fact contacted after the trailer had been towed, there is no requirement under the code for the Police Bureau to provide any notice prior to towing a recovered stolen vehicle. The Hearings Officer finds the tow was valid even though the officer only attempted to contact Mr. Marks via his cell phone and did not use an alternate number.

Therefore, it is ordered that all towing and storage charges against the vehicle shall remain the responsibility of the vehicle’s owner.

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

Dated: February 19, 2010
 CAS:rs/cb



Christina A. Austin-Smith, Hearings Officer

Enclosure

Bureau: Police
 Tow Number: 2291

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Marks, Robis J.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearing Process Info. sheet	Hearings Office	Received
5	Towed vehicle record	Police Bureau	Received
6	Investigation report	Police Bureau	Received
7	Property Connect Investigation Report	Police Bureau	Received
8	Owner Notification - Auto Records	Police Bureau	Received