



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF ALEXANDER J. NYDAHL

CASE NO. 1110056

DESCRIPTION OF VEHICLE: Honda Civic (OR 9P7935)

DATE OF HEARING: May 12, 2011

### APPEARANCES:

Mr. Alexander Nydahl, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Nydahl appeared at the hearing and testified on his own behalf. No one 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. Nydahl and the documents admitted into evidence (Exhibits 1 through and including 7).

### Summary of Evidence:

Mr. Nydahl submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on April 28, 2011. Mr. Nydahl writes that his vehicle was legally parked on the evening of April 24, 2011 near 526 NW 21<sup>st</sup> Avenue. Mr. Nydahl writes that he has a parking permit and that there were no signs or other notifications of the pending "no parking" designation for the area posted. Mr. Nydahl also writes that no notice of the "no parking" designation was received by mail. Mr. Nydahl writes that he commutes to work using his bicycle and does not use his car during the week, nor would his route to work take him past the location where his vehicle was parked. Mr. Nydahl writes that on Friday, April 29, 2011, his girlfriend attempted to retrieve the car, only to discover that it had been towed.

Mr. Nydahl appeared at the hearing and testified consistent with his written request. Mr. Nydahl questioned whether notice is required prior to the tow of a vehicle from a city street, and whether notice was posted on his vehicle prior to it being towed. Ms. Delia Chiu also testified on behalf of Mr. Nydahl. Ms. Chiu testified that she was the person who parked the vehicle on April 24, 2011, and that she did not observe any "no parking" signs upon parking the vehicle. Ms. Chiu testified that when she returned to the area on April 29, 2011, she saw approximately three no parking "sandwich boards" in the area where the vehicle was previously parked.

The City submitted Exhibits 5 and 6 for the Hearings Officer's consideration. Exhibit 6 is an Investigation Report in which the officer writes "Veh parked at NW 21/Hoyt in a space reserved for Interstate Roofing from 4-25-11 to 5-6-11 all hrs." The Officer did not submit any additional information regarding the signage in place when the vehicle was towed.

**Applicable Law:**

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 16.20.170 provides that "no person may store . . . a vehicle . . . on public right-of-way or other public property in excess of 24 hours without permission . . ." PCC 16.30.210D provides that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.210A1 provides that a vehicle may be towed from any public right-of-way when the vehicle is parked in violation of a temporary or permanent parking restriction. PCC 16.30.220B provides that an authorized officer may tow a vehicle, without notice, when the vehicle is illegally parked in a conspicuously posted restricted space.

**Findings of Fact and Conclusions of Law:**

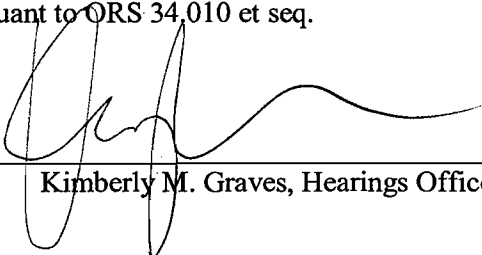
The Hearings Officer finds that on April 24, 2011, Mr. Nydahl's vehicle was parked in the area of NW 21<sup>st</sup> and NW Hoyt on a public right-of-way in a non-metered area. The Hearings Officer finds that Mr. Nydahl's vehicle remained in that location until it was towed on April 28, 2011. The Hearings Officer finds that on April 28, 2011 at approximately 9:25 am, per Exhibit 6, temporary no parking signs were in place restricting parking in the area of NW 21<sup>st</sup> and NW Hoyt. The Hearings Officer finds that for any no parking sign to be enforceable in a non-metered area, placement of the sign must have been verified by the City and such verification must have occurred 24 hours prior to the tow of any vehicle. The information submitted by the City does not provide any information regarding verification of the no parking signs. As a result, the Hearings Officer finds that the City has not met its burden to prove that the tow of Mr. Nydahl's vehicle was proper. The Hearings Officer finds that the tow of Mr. Nydahl's vehicle is invalid.

**Order:**

Therefore, the Hearings Officer finds that the owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

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

Dated: May 13, 2011  
KMG:jeg/rs

  
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Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police  
Tow Number: 7740

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 3 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Nydahl, Alexander J.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	Investigation Report	Police Records	Received
7	Tow Invoice	Nydahl, Alexander J.	Received