



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF AMY E. YATES

CASE NO. 1110148

DESCRIPTION OF VEHICLE: Mazda 626 (OR 455 DLY)

DATE OF HEARING: October 25, 2011

APPEARANCES:

Ms. Amy Yates, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms Yates appeared at the hearing and testified on her 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 Ms. Yates and the documents admitted into evidence (Exhibits 1 through and including 12).

Summary of Evidence:

Ms. Yates submitted a Tow Hearing Request form (Exhibit 3) and a typewritten letter (Exhibit 1) when she requested the tow hearing. Ms. Yates testified at the hearing about the information contained in the submitted documents. Ms. Yates testified that she has lived across the street from where her car was towed for 3.5 years. Ms. Yates testified that the area she was towed from has traditionally been used by the residents on her block for parking their vehicles and that the area has not had any posted parking restrictions. Ms. Yates testified that she does not know when the parking restriction signs were posted for the area, but a neighbor indicated that they were posted approximately one week before Ms. Yates' car was towed. Ms. Yates testified that the new zone appears to be approximately 5-6 car lengths long, and that she was parked in the middle of the zone when her car was towed on October 4, 2011. Ms. Yates stated that she rides her bike to work during the week and that she moves her car on a weekly, though not daily, basis. Ms. Yates stated that she would expect that the City would notify neighbors when making changes to parking regulations. At the hearing, Ms. Yates submitted two photos and a printed email (Exhibits 10 through, and including, 12). The photos submitted by Ms. Yates show the signage regulating the area where Ms. Yates had parked her vehicle prior to it being towed. The signage depicted in Exhibit 10 reads "Parking 5 Min driver remain at wheel 7am-4pm school days only." The sign depicted in Exhibit 10 contains an arrow pointing in both directions. The email, Exhibit 12, Ms. Yates indicated, is from a neighbor who also parks his vehicle in the area where Ms. Yates had parked on October 4, 2011.

The City submitted Exhibits 7 and 8 for the Hearings Officer's consideration. Exhibit 7 is a Tow Hearing Report completed by Ms. Hampton from the Office of Transportation Parking Enforcement Division. The report

indicates that on October 4, 2011, Ms. Yates' vehicle was towed from 26 NE Morris Street for violating a parking restriction which restricted the area to "5 min Driver Remain at Wheel." The narrative portion of the report indicates that on October 4, 2011 at 9:09 a.m., a service request was received to tow two vehicles which were parked in the restricted space. The report indicates that the vehicles specifically noted in the request were found parked in the space. The report indicates that the parking signs for the space had been installed on September 19, 2011, 15 days prior to the tow. Exhibit 8 is a copy of the citation issued to Ms. Yates at the time her vehicle was towed. Exhibit 9 contains three photos taken at the time of the tow. The upper right photo shows the driver's side of Ms. Yates vehicle with the parking restriction sign visible approximately 2-3 car lengths in front of the vehicle on the passenger's side.

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 16.30.210B provides that permanent parking restrictions may be enforced by tow 24 hours after placement in any meter or 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 NE Morris Street is a public right-of-way. The Hearings Officer finds that on October 4, 2011, a Monday, Ms. Yates' vehicle was parked on NE Morris in an area in which a permanent parking restriction had been recently installed. The Hearings Officer finds that the permanent parking restriction in place for the area where Ms. Yates' vehicle was parked was installed at least one week prior to the tow of Ms. Yates' vehicle. The Hearings Officer finds that a permanent parking restriction is enforceable 24 hours after installation, and therefore the restriction was enforceable on October 4, 2011. The Hearings Officer finds that Ms. Yates' vehicle remained parked in the restricted space for greater than 5 minutes and was in violation of the permanent parking restriction. The Hearings Officer finds that the permanent parking restriction signs were conspicuously posted. The Hearings Officer finds the tow of Ms. Yates' vehicle on October 4, 2011 is valid.

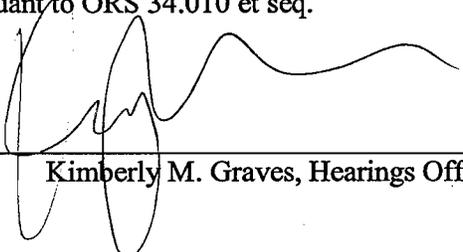
Order:

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: October 26, 2011
KMG:rs

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 16817

Exhibit #	Description	Submitted by	Disposition
1	Letter	Yates, Amy E.	Received
2	Tow Desk printout	Hearings Office	Received
3	Tow Hearing Request Form	Yates, Amy E.	Received
4	Letter	Yates, Amy E.	Received
5	Notice of Hearing	Hearings Office	Received
6	Statement of Rights and Procedures	Hearings Office	Received
7	Tow Hearing Report	Parking Enforcement	Received
8	Parking Violation #HA09702930	Parking Enforcement	Received
9	Photos	Photos	Received
10	Photo	Yates, Amy E.	Received
11	Photo	Yates, Amy E.	Received
12	10/24/11 Email from Travis Widner to Amy Yates	Yates, Amy E.	Received