



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

1900 SW 4<sup>th</sup> Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: [www.portlandoregon.gov/auditor/hearings](http://www.portlandoregon.gov/auditor/hearings)



## HEARINGS OFFICER'S ORDER

APPEAL OF JEREMY JENKS

CASE NO. 1110207

DESCRIPTION OF VEHICLE: Homemade Trailer (No Plates / No VIN)

DATE OF HEARING: December 27, 2011

### APPEARANCES:

Mr. Jeremy Jenks, Appellant

The City did not appear

HEARINGS OFFICER: Mr. Gregory J. Frank

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Jeremy Jenks ("Jenks") appeared at the hearing and testified on his own behalf. No person appeared at the hearing to testify on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Jenks and the documents admitted into the evidentiary record (Exhibits 1 through and including 9).

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules are found in the Portland City Code ("PCC") Title 16. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.20.120 Q, PCC 16.30.210 A.2 and PCC 16.30.220 A and D. PCC 16.20.120 Q states that it is unlawful to park or stop a vehicle in a manner that creates a traffic hazard impeding the safe movement of vehicular or pedestrian traffic. PCC 16.30.210 A.2 states that a vehicle may be towed and held at the expense of the owner or person entitled to possession thereof if the vehicle is in the public right-of-way and the vehicle is parked/stopped unlawfully in a manner that may be hazardous to traffic. PCC 16.30.220 A authorizes a police officer to order a vehicle towed, without prior notice, if the vehicle is impeding or likely to impede the normal flow of vehicular traffic. PCC 16.30.220 D permits a police officer to order a vehicle towed, without prior notice, if the vehicle poses an immediate danger to public safety.

Jenks testified that he owns a truck and trailer that he frequently parks on the public street. Jenks submitted a photo taken from behind the trailer and truck (Exhibit 9). Jenks stated that the truck is 6 feet wide and if parked one foot from the curb the street-side edge of the truck would be 7 feet from the curb. Jenks vigorously disagreed

with the Parking Enforcement Officer's ("Officer") statement (Exhibit 6) that the street-side edge of the trailer was 7'7" from the curb. Jenks stated that he did not believe that the location of the trailer on December 14, 2011, constituted a hazard.

The Officer submitted various documents into the evidentiary record (Exhibits 5, 6, 7 and 8). Exhibit 5 indicates that the Jenks' trailer is a "homemade wooden trailer" that was observed to be parked in the vicinity of 1623 NE Dekum Street in Portland, Oregon, on December 14, 2011. Exhibit 6 is a written narrative provided by the Officer and it says:

"On 12/14/11, I was requested to investigate a situation at 1623 NE Dekum St. When I got there, I found a wood trailer (with no plates or identification), parked at an angle to the curb. (pic #1 & #3, best example)

I stayed in that location for about five minutes, assessing the situation. I measured from the corner of the trailer that was in the street, to the curb, and found that it was 7'7" from the curb, and the rear wheel was over 3' from the curb. I noticed numerous cars crossing the double yellow line to make sure they had enough room to go by it safely (pic #2). I also noticed that the rear of the trailer had no reflective surface. The tail lights are affixed to the back of the wheel hub, and considering the angle it was parked at, the street side had no reflective surface. (The wheel hub is approx. 4' from the back of the trailer.)

Given that west bound traffic felt the need to cross the double line to pass the trailer and the fact that this was in the street as far as it was, I considered it a traffic hazard. After dark, it would have been an extreme hazard."

Exhibit 7 is a copy of a Parking Violation. Exhibit 7 indicates Jenks' trailer was ordered towed, by the Officer, at 2:32 p.m. on December 14, 2011.

Exhibit 8 contains three photographs. The top photos show the Jenks' trailer from behind the trailer. The bottom photo shows the Jenks trailer from in front of the trailer. The Hearings Officer, at the hearing, inquired of Jenks if the photos accurately reflected the location where the Jenks' trailer was parked on December 14, 2011. Jenks responded the photos did accurately show the location that the Jenks' trailer was parked on December 14, 2011.

The Hearings Officer finds that had the Jenks' trailer been parked as shown in Exhibit 9, it would not have constituted a "hazard" as described in Title 16. However, the Hearings Officer finds that the location of the Jenks' trailer, as shown in Exhibit 8 photos, does constitute a hazard. The Hearings Officer finds credible the comments of the Officer (Exhibit 6). In particular, the Hearings Officer finds relevant and persuasive the Officer's comments that passing motor vehicles were observed crossing over the double yellow line to assure that they avoided collision with the Jenks' trailer. The upper right photo on Exhibit 8 shows a vehicle passing the Jenks' trailer with its left wheels on the double yellow lines in the street. The Hearings Officer finds that the location where the Jenks' trailer was parked on December 14, 2011, constitutes a safety risk to passing vehicles. The Hearings Officer finds that the City was entitled to order the Jenks' trailer towed, without prior notice to Jenks, as a hazard per PCC 16.20.120 Q and PCC 16.30.210 A.2.

The Hearings officer finds the City of Portland ordered tow of the Jenks trailer from the vicinity of 1623 NE Dekum Street, Portland, Oregon, on December 14, 2011, is valid.

**ORDER:**

1. The City of Portland ordered tow of the Jenks trailer from the vicinity of 1623 NE Dekum Street, Portland, Oregon, on December 14, 2011, is valid.

2. All towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: December 28, 2011  
 GJF:jeg/rs




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Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement  
 Tow Number: 21427

<u>Exhibit #</u>	<u>Description</u>	<u>Submitted by</u>	<u>Disposition</u>
1	Tow Hearing Request Form	Jenks, Jeremy	Received
2	Tow Desk printout	Hearings Office	Received
3	Notice of Hearing	Hearings Office	Received
4	Statement of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Written Statement by Officer M71	Parking Enforcement	Received
7	Parking Violation #HA09450485	Parking Enforcement	Received
8	Photos	Parking Enforcement	Received
9	Photo	Jenks, Jeremy	Received