



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF ELLEN J. WERNER

CASE NO. 1120053

DESCRIPTION OF VEHICLE: Honda Civic (OR VME845)

DATE OF HEARING: April 3, 2012

APPEARANCES:

HEARINGS OFFICER: Mr. Gregory J. Frank

Ms. Werner appeared at the hearing and testified on her 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 Ms. Werner and the documents admitted into the evidentiary record (Exhibits 1 through and including 11).

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.

Ms. Werner testified that early Sunday (approximately 3:00 a.m. on March 18, 2012) she was driving home on North Columbia Boulevard when her vehicle (Honda Civic – Oregon license VME 845) ran out of gas. Ms. Werner stated that she pulled her vehicle as far to the right side of the street as possible;

adjacent to the curb. Ms. Werner stated that she called a friend who agreed to come and pick her up. Ms. Werner stated that while waiting for her friend, a police vehicle pulled up and stopped next to her vehicle. Ms. Werner stated that the police officer asked if she was okay and she responded that she was fine, that her vehicle had run out of gas, and she was waiting for her friend. Ms. Werner asked the police officer if she should leave her vehicle with the hazard lights flashing. Ms. Werner stated that the police officer advised her to leave her vehicle and return later in the morning to retrieve it.

The City of Portland Police Officer who ordered Ms. Werner's vehicle towed submitted a written report (Exhibit 5). The Police Officer, in Exhibit 5, stated in the narrative section, the following:

"On 3-18-12 at about 0600 hours, I responded to N. Columbia Blvd and N. Portsmouth Ave. on a report of a car blocking the street. Upon arrival, I observed the above listed vehicle in the west bound lane of Columbia Blvd just east of Portsmouth Ave. The vehicle was in the right lane and it was unattended. I did not see anyone around it, nor did I see anyone on the street. I towed the vehicle because it presented a traffic hazard. Traffic was unable to pass by the vehicle in the same lane. Thus, it was likely a traffic crash would occur if the vehicle was not towed."

Ms. Werner acknowledged that vehicles traveling westbound on North Columbia Boulevard could not safely pass her vehicle while staying in the far right travel lane. Ms. Werner acknowledged that she had some concern about the safety of her vehicle if it remained parked in the far right traffic lane (westbound) of North Columbia Boulevard.

The Hearings Officer finds that on March 18, 2012, Ms. Werner's vehicle was parked in the far right traffic lane of North Columbia Boulevard. The Hearings Officer finds the location where Ms. Werner's vehicle was parked, on March 18, 2012, did present a danger to her vehicle and other vehicles traveling westbound on North Columbia Boulevard. The Hearings Officer finds that Ms. Werner's vehicle, on March 18, 2012, did constitute a danger to public safety. The Hearings Officer finds that the location where Ms. Werner's vehicle was parked on March 18, 2012, impeded the normal traffic flow in the far right travel lane of westbound North Columbia Boulevard.

The Hearings Officer finds that the location of Ms. Werner's vehicle (parked in the outside westbound travel lane of North Columbia Boulevard) on March 18, 2012, did constitute a hazard and therefore, Ms. Werner's vehicle could lawfully be ordered tow without any prior notice. The Hearings Officer finds the Portland Police Officer who ordered Ms. Werner's vehicle towed on March 18, 2012, followed all relevant laws/rules. The Hearings Officer finds the City of Portland ordered tow of Ms. Werner's vehicle (Honda Civic – Oregon license VME 845) on March 18, 2012, is valid.

ORDER:

- 1 The City of Portland ordered tow of Ms. Werner's vehicle (Honda Civic – Oregon license VME 845) on March 18, 2012, 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: April 4, 2012

GJF:jeg/rs


Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 4592

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Werner, Ellen J.	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	Investigation Report	Police Records	Received
6	Notice of Tow	Police Records	Received
7	Tow Vehicle Record	Police Records	Received
8	Background Information	Police Records	Received
9	OR Driver's License	Police Records	Received
10	Vehicle Release	Police Records	Received
11	Address	Werner, Ellen J.	Received