

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF DAWN MONTEFUSCO

CASE NO. 1120100

DESCRIPTION OF VEHICLE: Saturn Ion (OR 027BRW)

DATE OF HEARING: June 19, 2012

APPEARANCES:

Ms. Dawn Montefusco, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Montefusco 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. Montefusco and the documents admitted into evidence (Exhibits 1 through and including 14).

Summary of Evidence:

Ms. Montefusco submitted a Tow Hearing Request Form and letter, Exhibits 1 and 1a, along with a number of photos related to the tow of her vehicle on June 29, 2012. The letter indicates that she "had no intent on breaking the law." The letter indicates that Ms. Montefusco paid for parking on the day that her vehicle was towed. Ms. Montefusco writes that she parks in the area frequently, and that she could not see the temporary "No Parking" sign because it was "too short and one-sided." Ms. Montefusco writes that she has parked in the same area for 5 years "without ever getting a ticket or getting towed." Ms. Montefusco writes that she could not see the sign from inside her car, or while she was paying for her parking. Ms. Montefusco writes that she believes the City "set a civilian up for FAILURE." The photos Ms. Montefusco submitted show her vehicle parked next to a parking pay station, and a No Parking delineator. The photos show the delineator and the vehicle from numerous angles, including inside and outside of the vehicle. Ms. Montefusco appeared at the hearing and stated that she believes the sign placed by the City is "poorly made" and that it "sets up the citizen for failure."

The City submitted Exhibits 9 through, and including, 14 regarding the tow of Ms. Montefusco's vehicle. Exhibit 9 is a Tow Hearing Report indicating that Ms. Montefusco's vehicle was towed at approximately 11:30 a.m. on May 29, 2012 from NW 15th between NW Hoyt and NW Irving for being parked in a reserved zone. Exhibit 10 is a narrative report from Parking Enforcement which indicates that parking enforcement was dispatched to the

location to tow a vehicle parked in a reserved space. The report indicates that the time on the sign showed that the sign was in effect at the time of the tow. The report indicates that the delineator was placed and verified on May 25, 2012 at 10:35 a.m. Exhibit 11 is a form from the City showing that Ms. Montefusco's vehicle was not parked in the reserved area on May 25, 2012 when the delineator was placed. Exhibit 12 is a print screen showing the number of parking tickets received by Ms. Montefusco since 2005. The document appears to indicate that Ms. Montefusco has received 10 parking tickets since 2005. Exhibit 13 is a copy of the citation issued to Ms. Montefusco when her vehicle was towed. Exhibit 14 contains four photos taken of Ms. Montefusco's vehicle prior to towing. The photos are similar to the photos submitted by Ms. Montefusco, and show the vehicle parked next to a clearly posted No Parking delineator.

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. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.30.210 A.1, PCC 16.30.210 D, and PCC 16.30.220 B. PCC 16.30.210 A.1 authorizes a Parking Enforcement Officer to order a vehicle towed and stored, at the owner's expense, if the vehicle is parked in any public right-of-way and the vehicle is parked in violation of any temporary or permanent parking restriction. PCC 16.30.210 E states that temporary parking restrictions may be enforced by tow if the space reservation device and/or signs are in place by 12:30 p.m. the prior day in any meter district. PCC 16.30.220 B permits a Parking Enforcement Officer to order a vehicle towed, without prior notice, if the vehicle is illegally parked in a conspicuously posted restricted space/zone.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that NW 15th between NW Hoyt and NW Irving is a meter district. The Hearings Officer finds that on May 29, 2012, Ms. Montefusco parked her vehicle on NW 15th in a space which was reserved with a No Parking delineator. The Hearings Officer finds that the delineator was placed and verified prior to 12:30 p.m. on the day prior to the tow. The Hearings Officer finds that the delineator was conspicuously placed such to facilitate that it was readily visible to any driver utilizing the reserved space. The Hearings Officer finds that tow of Ms. Montefusco's vehicle is valid.

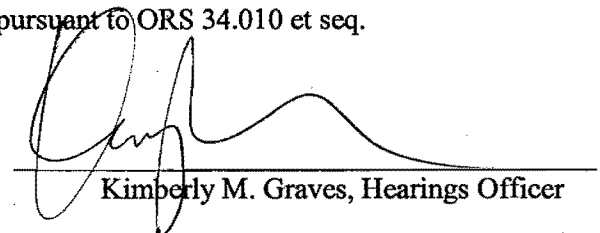
Order:

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: June 22, 2012
KMG:c2/cl

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 8632

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Montefusco, Dawn	Received
1a	6/5/12 letter	Montefusco, Dawn	Received
2	Photos	Montefusco, Dawn	Received
3	Parking/Towing Receipts	Montefusco, Dawn	Received
4	Tow invoice	Montefusco, Dawn	Received
5	Parking Violation	Montefusco, Dawn	Received
6	Tow Desk printout	Hearings Office	Received
7	Notice of Hearing	Hearings Office	Received
8	Notice of Rights and Procedures	Hearings Office	Received
9	Tow Hearing Report	Parking Enforcement	Received
10	Report Form	Parking Enforcement	Received
11	Parking Permit Copy	Parking Enforcement	Received
12	Parking Ticket History	Parking Enforcement	Received
13	Parking Violation #HA10189480	Parking Enforcement	Received
14	Photos	Parking Enforcement	Received