



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF SHADMAN AFZAL

CASE NO. 1130067

DESCRIPTION OF VEHICLE: Nissan Sentra (OR 946FBC)

DATE OF HEARING: April 23, 2013

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Shadman Afzal ("Appellant") did not appear at the hearing. 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 documents admitted into evidence (Exhibits 1 through and including 10).

Summary of Evidence:

Appellant submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of a vehicle on April 9, 2013 from Canyon Rd and Hwy 26. Appellant writes that the tow of the vehicle is invalid because, "My daughter took the car without permission or my knowledge. The police officer towed the vehicle instead of calling me. I, the 'victim' should have been called. The victim should not be charged to retrieve property. The City of Portland charged \$150. Nobody could explain this charge." The Appellant did not submit any other information about the tow of the vehicle.

The City submitted Exhibits 5 through, and including, 10 for the Hearings Officer's consideration. Exhibit 5 is a Towed Vehicle Record which indicates the vehicle was towed at approximately 2:25 a.m. on April 9, 2013 because the vehicle created a hazard. Exhibit 6 is a Custody Report which indicates that a traffic stop of Appellant's vehicle was conducted on April 8, 2013 just before midnight. The driver of the vehicle was identified as Mahsa Afzal. The report indicates that Ms. Afzal was taken into police custody at the end of an investigation. The end of the report reads, "Buck's Towing responded to tow Afzal's vehicle as a hazard." Exhibit 7 is a Tow Notice which indicates the vehicle was towed because it was a hazard. The officer has written the following as the reason the vehicle was a hazard, "Blocking Bike Lane/Traffic Lane." Exhibit 8 appears to be a copy of an officer's notebook which lists the name provided by Ms. Afzal during the traffic stop, and lists Appellant as the registered owner of the vehicle. Exhibit 7 is a copy of the citation issued to Ms. Afzal when the vehicle was towed. Exhibit 10 is a Special Report which provides details about how Ms. Afzal was identified as the driver of the vehicle.

Applicable Law:

The Hearings Officer must find a tow is valid if the person ordering the tow followed the relevant laws/rules. 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. 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.

Findings of Fact and Conclusions of Law:

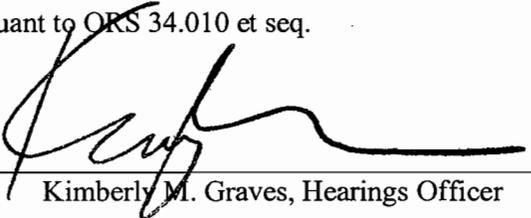
The Hearings Officer finds that on April 8, 2013 Ms. Afzal was driving Appellant's vehicle was she received a signal to stop from a Portland Police Officer. The Hearings Officer finds that Ms. Afzal was taken into custody and was unable to remove the vehicle from the location where it was stopped. The Hearings Officer finds that the vehicle, as parked, created a hazard for pedestrians and vehicular traffic. The Hearings Officer finds that the vehicle, as parked, impeded the flow of pedestrian and vehicular traffic. The Hearing Officer finds the tow of the vehicle is valid.

Order:

Therefore, it is ordered that all towing and storage charges against the vehicle, and an administrative fee, if applicable, shall remain the responsibility of the appellant.

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

Dated: April 25, 2013
KMG:c1/ml



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 5424

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Afzal, Shadman	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	Custody Report	Police Records	Received
7	Tow Notice	Police Records	Received
8	Note	Police Records	Received
9	Oregon Uniform Citation and Complaint	Police Records	Received
10	Special Report	Police Records	Received