



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY AUDITOR
Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF GARY L. BOYD

CASE NO. 1090237

DESCRIPTION OF VEHICLE: Mercury Cougar (OR DRH010)

DATE OF HEARING: October 29, 2009

APPEARANCES:

Mr. Gary L. Boyd, appellant

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer makes this decision based upon Mr. Boyd's testimony and the exhibits admitted into the evidentiary record (Exhibits 1 through and including 8). Mr. Boyd raised an objection to the officer report (Exhibit 5). He stated that the report contained factual errors. The Hearings Officer found that although the report might contain factual errors, it was relevant to the case, and told Mr. Boyd that he would have the opportunity to dispute the facts in the report during the hearing. The report was admitted over Mr. Boyd's objection.

The officer's report (Exhibit's 5 and 6) indicated that a warning was placed on the subject vehicle on September 16, 2009 because it was considered to be abandoned. The vehicle had expired tags dated 04/00, and had no trip permit. When the officer returned on September 21 the vehicle had a temporary trip permit with expiration date October 9, 2009. The officer had the vehicle towed on October 14, 2009.

The appellant stated that he thought the permit was for 30 days, but it was for 20 days. He pointed out that the officer's report (Exhibit 5) indicated that the officer returned to the vehicle on September 30 and saw the trip permit was expired and had the vehicle towed. The appellant suggested that this was inconsistent with the officer's report (Exhibit 6) indicating that the vehicle was towed on October 14. The appellant submitted a witness statement (Exhibit 8) which the Hearings Officer found did not provide any information relevant to the validity of the tow.

The Hearings Officer agreed that this was inconsistent. However, the Hearings Officer did not find this error to render the tow invalid. Reviewing the officer's information as a whole, the Hearings Officer found that it was clear that the officer's writing that the tow took place on September 30 was an error, and that the vehicle was towed on October 14, 2009.

Given these circumstances, the Hearings Officer finds that this was a valid tow. Please note the relevant city code sections below concerning this matter:

Portland City Code 16.20.120 Prohibited Parking or Stopping of a Vehicle.

(Amended by Ordinance Nos. 165594, 166575, 170923, 173369, 176394 and 176955 effective October 9, 2002.) Except when specifically directed by authority of this Title or when necessary to avoid conflict with other traffic, it is unlawful to park or stop a vehicle:

P. In the public right-of-way, public park, or city-owned or operated property if the vehicle is abandoned.

Portland City Code 16.90.005 Abandoned Vehicle.

A vehicle that remains in the same location for more than 24 hours and one or more of the following conditions exist:

A. The vehicle does not have a lawfully affixed, unexpired registration plate.

B. The vehicle appears to be inoperative or disabled.

C. The vehicle appears to be wrecked, partially dismantled or junked.

16.30.225 Towing with 24 Hour or 72 Hour Notice.

(Added by Ordinance No. 166947; amended by 170923, 172788 and 179141, effective March 23, 2005.)

B. A vehicle may be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle if the vehicle is an abandoned vehicle; or

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 30, 2009
IS:rs/cb


Ian Simpson, Hearings Officer

Bureau: Abandoned Autos
Tow Number: 20316

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Boyd, Gary L.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Tow hearing report	Abandoned Autos	Received
5a	Corrected Exh. 5	Abandoned Autos	Received
6	Case detail	Abandoned Autos	Received
7	Photos (not legible/dark)	Abandoned Autos	Received
8	Letter from other party	Boyd, Gary L.	Received