



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

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**HEARINGS OFFICER'S ORDER**

**APPEAL OF MICHAEL MITCHELL**

**CASE NO. 1090256**

**DESCRIPTION OF VEHICLE: Nissan Truck (OR 374DFS)**

**DATE OF HEARING: November 18, 2009**

**APPEARANCES:**

**Michael Mitchell, appellant**

**HEARINGS OFFICER: Mr. Gregory J. Frank**

Mr. Mitchell appeared and testified on his own behalf. Prior to the hearing, Mr. Mitchell submitted for the Hearings Officer's review a title with the transfer section indicating that Mr. Mitchell had purchased the Nissan that was towed and subject to this case (the "Vehicle"). The Hearings Officer granted Mr. Mitchell a hearing based upon the Hearings Officer's determination that Mr. Mitchell was either the owner of the Vehicle or had an interest in the Vehicle. The Hearings Officer makes this decision based upon the testimony of Mr. Mitchell and the documents admitted, without objection by Mr. Mitchell, into the evidentiary record (Exhibits 1 through and including 6).

Mr. Mitchell testified that shortly after purchasing the Vehicle he noticed a "Green Tow Sticker" attached to or on the Vehicle. Mr. Mitchell stated that an "officer" drove by and he told the officer about the "Green Tow Sticker", and the officer told him (Mitchell) to move the Vehicle in front of his house. Mr. Mitchell testified that he did move the Vehicle in front of his driveway, but still on the public right-of-way. Mr. Mitchell stated that he next noticed a Parking Violation for "Abandoned Auto" because of expired tags on the Vehicle. Mr. Mitchell was told, when he telephoned someone at the City, that it takes "3 days for information" and "call back Friday" (November 6, 2009). Mr. Mitchell stated that the Vehicle was towed on Thursday, November 5, 2009. Mr. Mitchell denied that the Vehicle was "abandoned." Mr. Mitchell did not believe the Vehicle was "currently registered" and did not contest the notation on Exhibit 6 that indicated the registration tags expired on or about July, 2009.

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person who ordered the tow followed all relevant laws/rules. In this case, the relevant laws/rules are found in Portland City Code ("PCC") Title 16. Sections relevant to this case are PCC 16.90.005, 16.20.120 P., 16.30.210 A.10., and 16.30.225 B.

PCC 16.90.005 defines the term abandoned for the remainder of Title 16. PCC 16.90.005 states that abandoned vehicle is defined as a vehicle that remains in violation for more than 24 hours and the vehicle does not have lawfully affixed, unexpired registration plates, or fails to display current registration. In this case, the Hearings Officer finds based upon Exhibit 6 and Mr. Mitchell's admission, that the Vehicle did not display current registration. The violation, therefore, is being an abandoned vehicle on the public right-of-way. The Hearings Officer finds that the violation did exist for more than 24 hours (at least from the placement of the Green Tow Sticker on October 29, 2009 to November 5, 2009 – see Exhibit 6). The Hearings Officer finds that the Vehicle meets the definition of abandoned vehicle under the Portland City Code.

PCC 16.20.120 prohibits parking, on the public right-of-way, an abandoned vehicle. The Hearings Officer finds that Mr. Mitchell admitted that the Vehicle, at all relevant times, was parked in the public right-of-way. As the Hearings Officer has already found the Vehicle meets the definition of an abandoned vehicle, the Hearings Officer finds that the Vehicle was parked in violation of PCC 16.20.120.

PCC 16.30.210 A.10. authorizes a vehicle to be towed, and held at the owner's expense, if the vehicle is parked in the public right-of-way and is considered abandoned. The Hearings officer has already found the Vehicle to meet the definition of abandoned vehicle and that it was parked in the public right-of-way.

PCC 16.30.225 B requires that notice be placed on the Vehicle at least 72 hours prior to being towed if the Vehicle is an abandoned vehicle. Mr. Mitchell admitted that a Green Tow Sticker was placed upon the Vehicle. Exhibit 6 indicates the Green Tow Sticker was placed upon the Vehicle on October 29, 2009 and the Vehicle was towed on November 5, 2009. The Hearings Officer finds that notice of possible/impending tow was placed on the Vehicle more than 72 hours before the Vehicle was towed.

The Hearings Officer notes that the Green Tow Sticker states that "If this vehicle is not completely removed from the public right of way it will be towed by order of the City of Portland." The Green Tow Sticker also contains information that after 72 hours have passed the vehicle may be ordered towed at the expense of the owner. Finally, the Green Tow Sticker includes a telephone number for the Abandoned Auto Office.

The Hearings Officer finds, based upon the evidence in the record, that the person ordering the tow followed all relevant laws/rules and therefore the tow of the Vehicle is valid.

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: November 19, 2009  
GJF: cb



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Gregory J. Frank, Hearings Officer

Bureau: Abandoned Autos  
Tow Number: 21975

Enclosure

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow hearing request form w/letter attached	Mitchell, Michael	<u>Received</u>
2	Tow desk printout	Hearings Office	<u>Received</u>
3	Hearing notice	Hearings Office	<u>Received</u>
4	Tow hearing info. sheet	Hearings Office	<u>Received</u>
5	Proof of ownership letter	Hearings Office	<u>Received</u>
6	Case detail	Abandoned Autos	<u>Received</u>