



CITY OF

PORTLAND, OREGON

OFFICE OF THE CITY AUDITOR
Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF DUSTIN JOHN PAXMAN

CASE NO. 1090262

DESCRIPTION OF VEHICLE: Nissan Pathfinder (OR 408BRM)

DATE OF HEARING: December 3, 2009

APPEARANCES:

Dustin John Paxman, appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Paxman appeared at the hearing and testified on his own behalf. The Hearings Officer makes this decision based upon the testimony of Mr. Paxman and the documents admitted into the evidentiary record (Exhibits 1 through and including 9).

Mr. Paxman testified that he reported his vehicle stolen. Mr. Paxman stated that when the police officer came to his house to take a stolen vehicle report, Mr. Paxman told the officer that if the vehicle was recovered to call him and not have the vehicle towed. Mr. Paxman, in his written request for a tow appeal hearing (Exhibit 1), stated that "I believe the tow was improper due to the fact that I spoke of this matter with Officer David Sanders, who was the officer I filed the initial police report with. I asked him to have it on the report to call me in the event of locating."

Exhibit 7 is an Investigation Report taken by Officer Sanders. No mention of calling Mr. Paxman is in the report.

Exhibit 9 is an Investigation Report prepared by Officer Cox. In this report, Officer Cox states that he located a stolen vehicle. Officer Cox stated that "I tried, unsuccessfully, to contact the listed owner on the stolen vehicle report."

The Hearings Officer must find a tow valid if the Hearings Officer finds that the police officer who ordered the vehicle towed followed the relevant laws/rules. In this case, the relevant laws/rules are found in the Portland City Code ("PCC") Title 16. PCC 16.30.220 A.5 permits a police officer to order a vehicle towed and held at the owner's expense if the vehicle has been reported stolen.

The Hearings Officer finds there is no dispute between Mr. Paxman and the City that his vehicle had been stolen. (Exhibits 1 and 5). The Hearings Officer finds there is no dispute between Mr. Paxman and

the City that his stolen vehicle was recovered by the Portland Police Bureau. There is also no dispute that Mr. Paxman's vehicle was ordered towed by the police officer who was at the scene of Mr. Paxman's recovered stolen vehicle. The Hearings Officer, therefore, finds that the police officer who ordered Mr. Paxman's vehicle towed on November 21, 2009, followed the relevant laws/rules. The Hearings Officer finds that the tow of Mr. Paxman's vehicle on November 21, 2009 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: December 8, 2009

GJF:rs/cb



Gregory J. Frank, Hearings Officer

Bureau: Police
Tow Number: 23159

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Paxman, Dustin John	Received
2	Tow Receipts	Paxman, Dustin John	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Tow Hearings Process Info. sheet	Hearings Office	Received
6	Towed Vehicle Record	Police Records	Received
7	Investigation Report	Police Records	Received
8	Owner Notification	Police Records	Received
9	Investigation Report	Police Records	Received