



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

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HEARINGS OFFICER'S ORDER

APPEAL OF WENDY L. BUSCH

CASE NO. 1090273

DESCRIPTION OF VEHICLE: Subaru Legacy (OR 955DWT)

DATE OF HEARING: December 22, 2009

APPEARANCES:

Wendy L. Busch, appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Ms. Wendy L. Busch appeared and testified at the hearing on her own behalf. The Hearings Officer makes this decision based upon the testimony of Ms. Busch and the documents admitted into the evidentiary record (Exhibits 1 through and including 7).

Ms. Busch testified that her vehicle was stolen, reported stolen and recovered. Ms. Busch stated that she did not park the vehicle at the location from which it was towed. Ms. Busch testified that she should not be responsible for the tow charges because someone stole her vehicle and parked it in an improper location.

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person who ordered the vehicle towed followed all relevant laws/rules. In this case the relevant laws/rules are found in Portland City Code ("PCC") Title 16. Specifically, PCC 16.90.105, PCC 16.20.130 V. and PCC 16.30.220 B.

PCC 16.90.105 defines, for the purposes of Title 16, the term "driveway." PCC 16.20.130 V. prohibits the parking of a vehicle in a driveway. PCC 16.30.220 B. permits a vehicle parked in a driveway to be towed by the City at the expense of the owner without prior notice to the owner.

Ms. Busch was unable to provide any evidence related to the location where the vehicle was towed; such as was it parked in a driveway. Therefore, the Hearings Officer finds that the statement (Exhibit 3) by the Parking Enforcement Officer who ordered the vehicle towed and the supporting photos (Exhibit 7) are the best evidence related to the location where the vehicle was parked prior to the tow. The Hearings Officer finds that Ms. Busch's vehicle was parked partially in a driveway and therefore, subject to being towed without prior notice to the owner. The Hearings Officer, finds that the Parking Enforcement Officer who ordered Ms. Busch's vehicle towed on December 11, 2009 followed the relevant laws/rules.

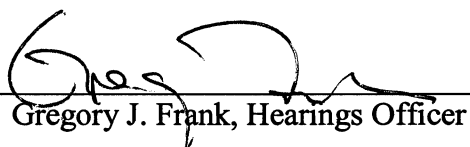
At the hearing the Hearings Officer noted to Ms. Busch that Title 16 permits a police officer to order a vehicle towed, without prior notice and at the expense of the owner, if the vehicle is reported stolen and then recovered by the Portland Police (PCC 16.30.210 A.5 and PCC 16.30.220 F).

The Hearings Officer finds, based upon the evidence in the record, that the tow of Ms. Busch's vehicle on December 11, 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 23, 2009
GJF: cb


Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 24673

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Letter	Busch, Wendy L.	<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	Tow hearing report	Parking Enforcement	<u>Received</u>
6	Parking violation	Parking Enforcement	<u>Received</u>
7	Photos	Parking Enforcement	<u>Received</u>