



CITY OF

PORTLAND, OREGON

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Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF ERIC L. OLSON

CASE NO. 1090287

DESCRIPTION OF VEHICLE: Ford Windstar (OR 738EBU)

DATE OF HEARING: December 30, 2009

APPEARANCES:

Eric L. Olson, appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Olson appeared at the hearing and testified on his own behalf. Mr. Olson also submitted two documents (Exhibits 8 and 9) into the record. The Hearings Officer makes this decision based upon the testimony of Mr. Olson and the documents admitted into the evidentiary record (Exhibits 1 through and including 9).

Mr. Olson testified that he parked his vehicle in a location with permission of the property owner (Exhibit 8). Mr. Olson stated that what appear to be vehicle garages are not used for vehicles, but rather are used for other uses (such as a studio) (Exhibit 8). Mr. Olson stated that the Parking Enforcement Officer's report indicating a "no parking" sign is incorrect; the sign actually states "no trespassing."

The Parking Enforcement Officer submitted documents into the record (Exhibits 6 and 7). Exhibit 6, a Tow Hearing Report, includes a narrative section stating:

"Vehicle was blocking tow garages. I was called to respond to a complaint on this vehicle. According to Title 16, it is illegal to block any driveway or garage. Permission from home owner is irrelevant. Sign above one garage door reads "no parking."

Mr. Olson and the Parking Enforcement Officer both submitted photos (Exhibits 7 and 9). The photos are consistent with each other and show Mr. Olson's van in an area in front of what appear to be garage doors.

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case, the relevant laws/rules are found in the Portland City Code ("PCC") Title 16. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.20.130 V., PCC 16.30.220B and PCC 16.90.105.

PCC 16.20.130 V states that it is unlawful to park or stop a vehicle in front of any portion of a driveway ingress/egress to the public right-of-way. PCC 16.90.105 defines a "driveway" for the purposes of Title 16. In summary, PCC 16.90.105 defines a "driveway" as an access extending from a public right-of-way onto private or public lands for the purpose of gaining vehicular access to such areas and reasonably designated at the property line so as to be an obvious open for access. For the purposes of enforcement a driveway extends from one curb return to the other and if winged, includes the wings. PCC 16.30.220 B permits a vehicle to be towed without prior notice and stored, at the owner's expense, in a location where parking is prohibited.

The Hearings Officer finds that the evidence is clear that the location where Mr. Olson parked on December 14, 2009 meets the definition of a driveway. The Hearings Officer relies heavily, in making the finding that the location is a driveway, upon the photos submitted by the Parking Enforcement Officer and Mr. Olson (Exhibits 7 and 9).


The Hearings Officer finds nothing the Title 16 to exempt enforcement of parking in a driveway based upon "permission of the owner." The Hearings Officer finds that the Parking Enforcement Officer acted in response to a "complaint" and the Parking Enforcement Officer followed all relevant laws/rules. The Hearings Officer finds that the tow of Mr. Olson's vehicle on December 14, 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 31, 2009

GJF:rs/cb


 Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
 Tow Number: RAS

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Olson, Eric L.	Received
2	Parking Violation and blank Tow Invoice	Olson, Eric L.	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Tow Hearings Process Info. sheet	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation with photos	Parking Enforcement	Received
8	letter from Dale Haney	Olson, Eric L.	Received
9	Photos	Olson, Eric L.	Received