



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

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HEARINGS OFFICER'S ORDER

APPEAL OF BRUCE D. WILLEY

CASE NO. 1100030

DESCRIPTION OF VEHICLE: Lexus 300 (WA 059YIB)

DATE OF HEARING: February 17, 2010

APPEARANCES:

Mr. Bruce Tarbox, Attorney for Mr. Willey

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Bruce Tarbox, attorney, appeared at the hearing and represented Mr. Willey. The Hearings Officer makes this decision based upon the argument of Mr. Tarbox and the documents admitted into the evidentiary record (Exhibits 1 through and including 8).

Mr. Tarbox argued that the only document in the record related to the underlying reason Mr. Willey's vehicle was towed is Exhibit 2; submitted by Mr. Tarbox. Exhibit 2 indicates that Mr. Willey's vehicle was towed because a police officer had probable cause to believe that Mr. Willey had been driving under the influence of intoxicants (violation of ORS 813.010). Mr. Tarbox argued that there is no evidence, in the record, explaining the basis of the police officer's belief that Mr. Willey had been driving in violation of ORS 813.010. The Hearings Officer agrees with Mr. Tarbox's argument. The Hearings Officer finds absolutely no evidence in the record describing the events/actions/statements leading to the police officer arriving at a conclusion that he/she had probable cause to believe Mr. Willey had been driving under the influence of intoxicants.

The Hearings Officer must find a tow valid if the Hearings Officer finds that the police officer who ordered the tow followed all relevant laws/rules. In this case, as there is no evidence to support the police officer's finding of probable cause that Mr. Willey was driving under the influence of intoxicants. The Hearings Officer finds that the police officer did not follow all relevant laws/rules. Therefore, the Hearings Officer must find that the tow of Mr. Willey's vehicle is not valid.

The Hearings Officer, on substantial evidence and based upon the record as a whole, finds as follows:

The Hearings Officer finds that the owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges.

It is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: February 18, 2010
GJF:rs



Gregory J. Frank, Hearings Officer

Bureau: Police
Tow Number: 2474

Enclosure

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 3 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Tarbox, P.C., Bruce	Received
2	Notice of Impoundment Towing	Tarbox, P.C., Bruce	Received
3	Release Agreement	Tarbox, P.C., Bruce	Received
4	Receipt	Tarbox, P.C., Bruce	Received
5	Tow Desk printout	Hearings Office	Received
6	Hearing Notice	Hearings Office	Received
7	Tow Hearings Process Info. sheet	Hearings Office	Received
8	Towed Vehicle Record	Police Records	Received