



CITY OF
PORTLAND, OREGON
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Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF RAY LANGSTON
And
CARRIE RAE ATHERTON

CASE NO. 1100063

DESCRIPTION OF VEHICLE: GMC Truck (OR XZD012)

DATE OF HEARING: April 20, 2010

APPEARANCES:

Ray Langston, appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Langston appeared at the hearing on April 20, 2010. Mr. Langston provided information from his daughter, Carrie Rae Atherton, that Ms. Atherton currently holds the legal title but Mr. Langston was in possession of the vehicle for security purposes. Mr. Langston agreed to add Ms. Atherton as an Appellant in this tow appeal case. The Hearings Officer finds the letter (Exhibit 10), from Ms. Atherton, supports the addition of Ms. Atherton as an appellant in this case. The Hearings Officer makes this decision based upon the testimony of Mr. Langston and the documents admitted into the evidentiary record (Exhibits 1 through and including 11).

Mr. Langston testified that the "step van" (hereafter referred to as the "Subject Vehicle") that is subject to this appeal and was towed on April 1, 2010, is listed on the registration as a "van" and not as a "truck." Mr. Langston stated that the Subject Vehicle is used in the newspaper delivery business. Mr. Langston stated that the Subject Vehicle is only used in emergency or back-up situations. Mr. Langston acknowledged that the Subject Vehicle is only used periodically. Mr. Langston stated that he would normally have moved the Subject Vehicle, but circumstances kept him from moving it in this instance.

The City of Portland Abandoned Auto Inspector who ordered the Subject Vehicle towed on April 1, 2010 submitted documents into the record (Exhibits 5, 6, 7 and 8). Exhibit 5 contains a written statement by the Abandoned Auto Inspector. In summary, the Abandoned Auto Inspector stated, in Exhibit 5, that he/she first noticed the Subject Vehicle parked in a residential area on the public right-of-way on March 15, 2010. The Abandoned Auto Inspector, on March 15, 2010, noted the location of the valve stems on the rear street-side wheel (11/8). The Abandoned Auto Inspector returned to the location of the Subject Vehicle on March 25, 2010 and noted that the valve stem locations on the rear street-side wheel were the same. The Abandoned Auto Inspector, at approximately 8:43 a.m. on March 25, 2010, attached a Green Tow Warning Sticker ("Warning") to the Subject Vehicle. The Abandoned Auto Inspector returned to the location of the Subject Vehicle once again on March 31, 2010 and observed the Subject Vehicle parked in the same location and ordered the Subject Vehicle towed for

violating Portland City Code ("PCC") 16.20.120 H and I. Exhibit 8 indicates the Subject Vehicle was towed on April 1, 2010. Exhibit 6 contains three photographs of a white truck/van with Oregon license XZD 012 (the Subject Vehicle).

The Hearings Officer will find the tow of a vehicle valid if the Hearings Officer finds that the person who ordered the tow followed the relevant laws/rules. In this case, the relevant laws/rules are found in PCC 16.210.120 H., PCC 16.30.225 C. and PCC 16.90.405. PCC 16.90.405 defines, for the purposes of vehicle parking and towing, the word "truck." PCC 16.90.405 defines "truck" as "every motor vehicle designed, used or maintained primarily for the transportation of property, good or providing a service...step vans." PCC 16.30.120 H. states that a truck may not be parked in a residential area except to load/unload goods to an adjacent residence for a time period not to exceed eight (8) hours. PCC 16.30.225 states that a vehicle may be towed 72 hours after a Notice of Intent to Tow has been affixed or placed on the vehicle that is in violation of PCC 16.20.120 H.

The Hearings Officer finds that Mr. Langston testified that the Subject Vehicle was a "step van" and listed as a "van" on its DMV registration. The Hearings Officer finds that the Abandoned Auto Inspector referred to the Subject Vehicle as a "step van." The Hearings Officer finds that the Subject Vehicle, being a "step-van" is a truck under the definition in PCC 16.90.405.

The Hearings Officer finds that the Subject Vehicle was parked in the same location from March 15, 2010 (date first observed by the Abandoned Auto Inspector) through March 31, 2010 (date Subject Vehicle ordered towed by the Abandoned Auto Inspector). The Hearings Officer finds that the extended time the Subject Vehicle was parked on the public right-of-way, between March 15, 2010 to March 31, 2010, exceeded the limits allowed for a truck under PCC 16.20.120 H. The Hearings Officer finds the Warning was placed on the Subject Vehicle on March 25, 2010 at approximately 8:43 a.m., and that the vehicle was not towed until 72 hours elapsed (Subject Vehicle towed on April 1, 2010).

The Hearings Officer finds that the Abandoned Auto Inspector who ordered the Subject Vehicle towed followed the relevant laws/rules. The Hearings Officer finds the tow of the Subject Vehicle, on April 1, 2010, 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: April 21, 2010
GJF:rs/cb



Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 5903

Exhibit #	Description	Submitted by	Disposition
1	Hearing request note card	Langston, Ray	<u>Received</u>
2	Tow Desk printout	Hearings Office	<u>Received</u>
3	Hearing Notice	Hearings Office	<u>Received</u>
4	Tow Hearings Process Info. sheet	Hearings Office	<u>Received</u>
5	Tow Hearing Report	Abandoned Autos	<u>Received</u>
6	Photos	Abandoned Autos	<u>Received</u>
7	Parking Violation	Abandoned Autos	<u>Received</u>
8	Tow Detail	Abandoned Autos	<u>Received</u>
9	Ownership letter	Hearings Office	<u>Received</u>
10	Letter	Langston, Ray	<u>Received</u>
11	Copy of Carrie Rae Atherton's driver's license	Langston, Ray	<u>Received</u>