



CITY OF PORTLAND

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HEARINGS OFFICER'S ORDER

APPEAL OF ALBERT F. MARRON, JR.

CASE NO. 1120045

DESCRIPTION OF VEHICLE: Honda Pilot (OR 476BCM)

DATE OF HEARING: April 3, 2012

APPEARANCES:

Mr. Albert Marron, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Marron, Jr. appeared at the hearing and testified on his own behalf. No person appeared at the hearing to testify on behalf of the City of Portland. The Hearings Officer makes this decision based upon the testimony of Mr. Marron, Jr. and the documents admitted into the evidentiary record (Exhibits 1 through and including 7).

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 opening 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.

Mr. Marron, Jr. testified that on March 17, 2012, he parked his car prior to attending a college playoff basketball game. Mr. Marron, Jr. stated that he made sure that he was parked outside the "gate poles" to assure that anyone entering/exiting the driveway could do so safely. Mr. Marron, Jr. stated that the location he parked, on March 17, 2012, may have "technically" been within the City definition of a driveway. However, Mr. Marron, Jr. emphasized, in his testimony, that he did not feel that he was "blocking a driveway."

The Hearings Officer asked Mr. Marron, Jr. to review the photos on Exhibit 7. Mr. Marron, Jr. indicated, when referring to the photo in the upper right corner of Exhibit 7, that adjacent to the rear wheel of his vehicle the sidewalk was nearly level with the street pavement. Mr. Marron, Jr. acknowledged that section, adjacent to the back half of his vehicle, was parked in an area that fit the definition of a driveway.

The Hearings Officer reviewed documents submitted by the City of Portland Parking Enforcement Officer who ordered Mr. Marron, Jr.'s vehicle towed on March 17, 2011. (Exhibits 5, 6 and 7) Exhibit 5 contains a narrative section where the Parking Enforcement Officer states, in part, that "the veh was blocking the entire driveway apron and into the trough." Exhibit 7 contains three color photographs. All photos on Exhibit 7 show Mr. Marron, Jr.'s vehicle. The photographs (upper right corner and lower left corner) show Mr. Marron, Jr.'s vehicle parked, with the back half of the vehicle "outside of the gate posts" but within the driveway apron/wings.

The Hearings Officer finds that the location where Mr. Marron, Jr.'s vehicle was parked on March 17, 2011, at approximately 4:20 p.m. on North Vancouver (public right-of-way), was within the City of Portland. The Hearings Officer finds that the location where Mr. Marron, Jr. parked his vehicle, on March 17, 2011, was partially within an area that the PCC defines as a driveway. Specifically, the Hearings Officer finds that Mr. Marron, Jr.'s vehicle was parked adjacent to a driveway apron. The Hearings Officer relied, primarily, upon the statements of Mr. Marron, Jr. and the photographs (Exhibit 7) in making this decision.

The Hearings Officer finds that the Parking Patrol Officer who ordered Mr. Marron, Jr.'s vehicle towed on March 17, 2011, followed all relevant laws/rules. The Hearings Officer finds that the City of Portland ordered tow of Mr. Marron, Jr.'s vehicle on March 17, 2011, from the public right-of-way (in front of 2045 North Vancouver) is valid.

ORDER:

1. The City of Portland ordered tow of Mr. Marron, Jr.'s vehicle on March 17, 2011, from the public right-of-way (in front of 2045 North Vancouver) is valid.
2. All towing and storage charges against the vehicle, and an administrative fee, if applicable, shall remain the responsibility of the appellant.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: April 4, 2012
 GJF:rs



 Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement
 Tow Number: 4556

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Marron, Albert F.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received