

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF KELLEE SANDOVAL

CASE NO. 1120046

DESCRIPTION OF VEHICLE: Mercedes 240D (OR JTK023)

DATE OF HEARING: April 5, 2012

APPEARANCES:

Ms. Kellee Sandoval, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Sandoval appeared at the hearing and testified on her own behalf. No one appeared on behalf of the City. The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes the testimony of Ms. Sandoval and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Ms. Sandoval submitted a Tow Hearing Request Form (Exhibit 1) and a typewritten letter (Exhibit 2) regarding the tow of her vehicle on March 14, 2012. Ms. Sandoval writes in her letter that she was "given prior to consent to 'partially block' the drive from the owner of the drive in which my car was parked when the towing of my vehicle occurred." Ms. Sandoval indicates that she was visiting the driveway owner when her vehicle was towed. Ms. Sandoval speculates that the towing of her vehicle was "an unjustified act" and she believes it was "an act of vengeance from a neighboring community member." Ms. Sandoval writes that she "had no prior knowledge" that blocking a driveway, either fully or partially, was not permitted in the City of Portland. Ms. Sandoval indicates that the tow of her vehicle has created a financial hardship for her family and she would like to appeal the matter. Ms. Sandoval appeared at the hearing and reiterated the arguments that she presented in Exhibit 2. Ms. Sandoval indicated that her vehicle was not impeding traffic or any other driveway, and that she believes that the report to parking enforcement was the result of "personal vengeance" by a neighbor. Ms. Sandoval indicated that she had permission to park in front of the driveway and that she was unaware that blocking a driveway, with permission, was not permitted.

The City submitted Exhibits 6 through, and including, 8 for the Hearings Officer's consideration. Exhibit 6 is a Tow Hearing Report submitted by the Office of Transportation Parking Enforcement Division. The report

indicates that Ms. Sandoval's vehicle was towed on March 14, 2012, from SE Lincoln Street at approximately 1:00 p.m. The narrative portion of the report reads, "I was called by dispatch at 12:47 p.m. for SR 706 to the address 625 SE Lincoln St. to tow a Mercedes Benz plate JTK023 from a blocked driveway. When I arrived I observed JTK023 parked blocking half of the drive (please refer to photo 4 taken from upper driveway.) I cited the Mercedes Benz at 12:57 p.m. with HA08329949 and resolved it with dispatch @ 1:00 p.m. cite and Tow as requested by the complainant."

Applicable Law:

The Hearings Officer must find a tow is valid if the person ordering the tow followed the relevant laws/rules. In this case, the relevant laws/rules can be 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 A permits a vehicle to be towed without prior notice and stored, at the owner's expense, when the vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on March 14, 2012, Ms. Sandoval's vehicle was parked in a manner which partially blocked a driveway located on SE Lincoln Street. The Hearings Officer finds that the area where Ms. Sandoval's vehicle was parked meets the definition set out in 16.90.105 for a driveway. The Hearings Officer finds that a report was received by parking enforcement to tow a vehicle which was parked blocking a driveway. The Hearings Officer finds that a report to parking enforcement indicates that the vehicle in question is impeding vehicular or pedestrian traffic, or is likely to impede the movement of vehicular or pedestrian traffic. The Hearings Officer finds that Ms. Sandoval's vehicle was parked in a manner which partially blocked a driveway and was impeding or likely to impede the flow of vehicular or pedestrian traffic. The Hearings Officer finds the tow of Ms. Sandoval's vehicle to be valid.

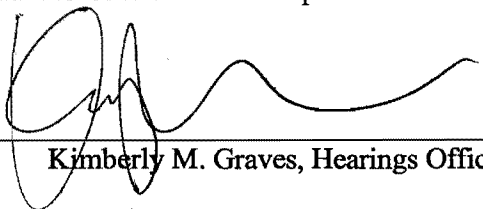
Order:

Therefore, 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 6, 2012
KMG:jeg/rs

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 4332

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Sandoval, Kellee	Received
2	3/16/12 Written Statement	Sandoval, Kellee	Received
3	Tow Desk printout	Hearings Office	Received
4	Notice of Hearing	Hearings Office	Received
5	Statement of Rights and Procedures	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation #HA08329949	Parking Enforcement	Received
8	Photos	Parking	Received