



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Robert Dusty Strader

CASE NO. 1120048

DESCRIPTION OF VEHICLE: Ford Explorer (OR YEN935)

DATE OF HEARING: April 3, 2012

APPEARANCES:

Mr. Robert Strader, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Strader 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. Strader and the documents admitted into the evidentiary record (Exhibits 1 through and including 10).

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 16.30.200 K.1. This section of the PCC states, "any authorized officer may, without prior notice, order a vehicle towed, when the officer has probable cause to believe that the vehicle's operator was driving uninsured" (in violation of Oregon Revised Statutes 806.010).

The Hearings Officer reviewed the reports/documents submitted by the City of Portland Bureau of Police (Exhibits 6 through and including 8). The Hearings Officer notes that Exhibit 6, an Oregon Police Traffic Crash Report (completed by Police Officer Felts) states that Mr. Strader is the owner of the 1993 Ford Explorer (the "Vehicle") ordered towed by the City on March 21, 2012. Exhibit 6 also states that the Vehicle is insured with Progressive (policy #7515339750). The Hearings Officer reviewed Exhibit 6, page 6 (narrative comments by Officer Felts) and there is no reference to the Vehicle not being properly insured. The Hearings Officer reviewed narrative comments by Officer Norlin, in Exhibit 7, and found no statement that the Vehicle lacked valid insurance. The Hearings

Officer reviewed narrative comments by Officer Baldwin, in Exhibit 8, and found no statement that the Vehicle lacked valid insurance. The Hearings Officer reviewed Exhibit 9 (Notice of Tow) and notes that the "Driving Uninsured" section is not checked.


Mr. Strader testified that valid insurance currently covers the Vehicle. Mr. Strader stated that a copy of the insurance card was sitting on the passenger seat of the Vehicle when he recovered it from the tow storage yard.

The Hearings Officer finds that the City provided no evidence that a violation of ORS 806.010 (driving uninsured) occurred on March 21, 2012. The Hearings Officer finds that ordering the Vehicle towed, by the City of Portland, is not valid.

ORDER:

1. The City of Portland ordered tow of the Vehicle on March 21, 2011, is not valid.
2. 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 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:jeg/rs



 Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Police
 Tow Number: 4805

| <u>Exhibit #</u> | <u>Description</u> | <u>Submitted by</u> | <u>Disposition</u> |
|------------------|------------------------------------|-----------------------|--------------------|
| 1 | Tow Hearing Request Form | Strader, Robert Dusty | Received |
| 2 | Tow Desk printout | Hearings Office | Received |
| 3 | Notice of Hearings | Hearings Office | Received |
| 4 | Statement of Rights and Procedures | Hearings Office | Received |
| 5 | Towed Vehicle Record | Police Records | Received |
| 6 | Oregon Police Traffic Crash Report | Police Records | Received |
| 7 | Custody Report | Police Records | Received |
| 8 | Special Report | Police Records | Received |
| 9 | Notice of Tow | Police Records | Received |
| 10 | A & B Towing and Recovery Receipt | Strader, Robert Dusty | Received |