



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Jennifer A. Fletcher

CASE NO. 1120054

DESCRIPTION OF VEHICLE: Saab 93 (OR CA23348)

DATE OF HEARING: April 12, 2012

APPEARANCES:

Ms. Jennifer Fletcher, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Fletcher 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. Fletcher and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Ms. Fletcher submitted a Tow Hearing Request Form, Exhibit 1, and a type-written letter, Exhibit 2, in which she indicates that her vehicle was towed on March 20, 2012, from SE Woodward and SE 8th. Ms. Fletcher writes that her vehicle was damaged in a collision and that she parked it in a legal parking space before having it towed by an auto shop. Ms. Fletcher writes that a mechanic looked at the vehicle on March 17, 2012 and that the alarm on the vehicle was quiet at that time. Ms. Fletcher writes that she spoke with the officer who ordered the vehicle towed after the alarm began sounding and the officer indicated that she was unable to get a hold of Ms. Fletcher prior to towing the vehicle. Ms. Fletcher indicates that she updated her information through the DMV 17 days prior to the towing of her vehicle, but apparently the DMV had not updated its information to allow the officer to contact her. Ms. Fletcher appeared at the hearing and testified consistent with her written statement. Ms. Fletcher indicated that she believed that the auto shop was going to tow her vehicle on March 17, 2012, but apparently they did not. Ms. Fletcher stated that she did not know that the alarm was damaged, and that it's possible that it was sounding because someone attempted to break into the car.

The City submitted Exhibits 7 and 8 for the Hearings Officer's consideration. Exhibit 7 is a Towed Vehicle Record showing that the vehicle was towed for the violation of "alarm." Exhibit 8 is an Investigation Report written by Officer Ottoman. The narrative portion of the report indicates that a radio call was received for a "chronic vehicle alarm." The report indicates that upon the officer's arrival, the alarm was sounding and the

lights were flashing. The report also indicates that a nearby business reported that the vehicle alarm had been sounding since early in the morning. (The report time is listed as 1417 hours). The officer writes "As I sat here the alarm would sound, reset, and sound again in about five minutes. . . I was on scene over 30 minutes and the alarm cycled numerous times."

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. PCC 16.20.120A provides that it is unlawful to park or stop a vehicle "when such vehicle is equipped with a vehicle alarm unless such system is designed to, and does in fact, cease emitting an intermittent or constant sound after an aggregate time of 3 minutes within a 15 minute period on any public right-of-way or in a public park." PCC 16.30.220I provides that any authorized officer may, without prior notice, order a vehicle towed when "the vehicle is parked or stopped in violation of 16.20.120A and the vehicle alarm system disturbs, injures, or endangers, or is likely to disturb, injury, or endanger, the peace, quiet, comfort, repose, health, or safety of the public or any person."

Findings of Fact and Conclusions of Law:

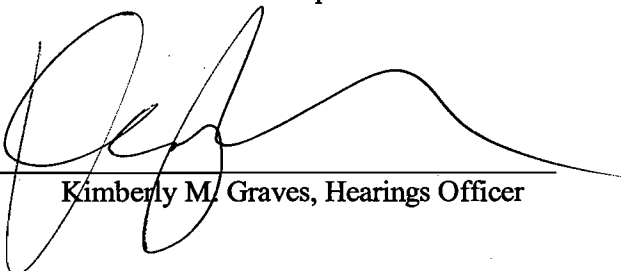
The Hearings Officer finds that on March 17, 2012, Ms. Fletcher parked her vehicle near SE Woodward and SE 8th; on a public right-of-way. The Hearings Officer finds that Ms. Fletcher's vehicle is equipped with an alarm system. The Hearings Officer finds that that on March 20, 2012, the alarm system on Ms. Fletcher's vehicle began emitting an alarm which continued for an extended period of time, and which was likely to disturb the public peace. The Hearings Officer finds the tow of Ms. Fletcher'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 16
KMG:jeg



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: PPB
Tow Number: 4731

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Fletcher, Jennifer A.	Received
2	3/28/12 Letter	Fletcher, Jennifer A.	Received
3	Email string	Fletcher, Jennifer A.	Received
4	Tow Desk printout	Hearings Office	Received
5	Notice of Hearing	Hearings Office	Received
6	Statement of Rights and Procedures	Hearings Office	Received
7	Towed Vehicle Record	Police Records	Received
8	Investigation Report	Police Records	Received