

# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF Camden Stanke

CASE NO. 1120050

DESCRIPTION OF VEHICLE: Pontiac Bonneville (OR 841CSX)

DATE OF HEARING: April 10, 2012

### APPEARANCES:

Camden Stanke, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Stanke appeared at the hearing and testified on his 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 Mr. Stanke and the documents admitted into evidence (Exhibits 1 through and including 8).

### Summary of Evidence:

Mr. Stanke submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on March 19, 2012, from NW 17<sup>th</sup> and Burnside. Mr. Stanke writes that he lives on NW 16<sup>th</sup> and Burnside and walked past the area where his vehicle was parked on multiple occasions between March 16 and March 18. Mr. Stanke writes that there were no visible Temporary No Parking signs. Mr. Stanke appeared at the hearing and testified that he has a residential parking permit and that he often doesn't move his vehicle for a number of days. Mr. Stanke testified that when he parks his vehicle for a number of days he checks on his vehicle multiple times. Mr. Stanke testified that his vehicle was parked approximately 30 yards north of Burnside on 17<sup>th</sup>. Mr. Stanke testified that he walked past 17<sup>th</sup> on Burnside 3 times while his vehicle was parked on 17<sup>th</sup>. Mr. Stanke testified that he never saw any Temporary No Parking signs near his vehicle. Mr. Stanke testified that his girlfriend was with him each time he walked past his vehicle, and that she would testify that she did not see any No Parking signs either.

The City submitted Exhibits 5 through, and including, 7 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report indicating that Mr. Stanke's vehicle was towed at approximately 7:30 a.m. on March 19, 2012, from NW 17<sup>th</sup> Ave. The narrative portion of the report reads:

"Officer responding to Tow Request of Vehicle parking a Temporary No Parking Space - Barricades & Bags were visable [sic] and clearly posted per policy - Verified per policy (see attached

pictures) Towed Vehicle per policy. Subject to Tow per signs & policy: Crew standing by."

The report indicates that the signs were verified on March 16, 2012, at 4:00 p.m. Exhibit 6 is a copy of the citation issued to Mr. Stanke on March 19, 2012. Exhibit 7 contains 3 photos related to the tow of Mr. Stanke's vehicle. The upper right photo shows the rear of Mr. Stanke's vehicle, there are Temporary No Parking signs visible in the photo. The upper left and lower left photos show Temporary No Parking signs, however, Mr. Stanke's vehicle is not visible in either photo.

**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 16.20.170 provides that "no person may store . . . a vehicle . . . on public right-of-way or other public property in excess of 24 hours without permission . . ." PCC 16.30.210D provides that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.210A1 provides that a vehicle may be towed from any public right-of-way when the vehicle is parked in violation of a temporary or permanent parking restriction. PCC 16.30.220B provides that an authorized officer may tow a vehicle, without notice, when the vehicle is illegally parked in a conspicuously posted restricted space.

**Findings of Fact and Conclusions of Law:**

The Hearings Officer finds that Mr. Stanke parked his vehicle on NW 17<sup>th</sup> Ave., a public right-of-way on March 13, 2012. The Hearings Officer finds that Mr. Stanke's vehicle was towed on March 19, 2012, for being parked in violation of a Temporary No Parking zone. The Hearings Officer finds that signs were placed and verified in the area of Mr. Stanke's vehicle on March 16, 2012. The Hearings Officer finds Mr. Stanke to be credible in his statement that he did not see Temporary No Parking signs when passing by his vehicle between March 15, 2012, and March 18, 2012. The Hearings Officer finds that the City failed to submit sufficient documentation or photos from which the Hearings Officer could determine whether the signage was placed in a conspicuous manner. The Hearings Officer finds that the City has failed to meet its burden to prove that the tow of Mr. Stanke's vehicle is valid. The Hearings Officer finds the tow of Mr. Stanke's vehicle to be invalid.

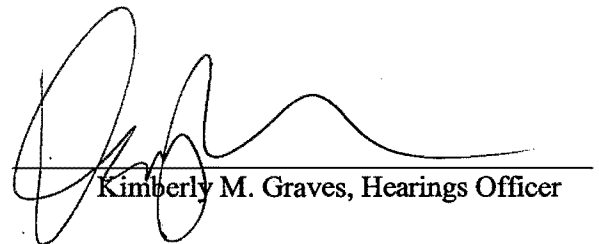
**Order:**

Therefore, the Hearings Officer finds that the owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that 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 vehicle owner.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: April 16  
KMG:jeg

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement  
Tow Number: 4642

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 3 weeks.

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Stanke, Camden	Received
2	Tow Desk printout	Hearings Office	Received
3	Notice of Hearing	Hearings Office	Received
4	Statement of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation #HA08610446	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Security Towing & Recovery Receipt	Stanke, Camden	Received