

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Jason Brough

CASE NO. 1120072

DESCRIPTION OF VEHICLE: Jeep Wrangler (OR 634 BQG)

DATE OF HEARING: April 20, 2012

APPEARANCES:

Mr. Jason Brough, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Brough 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. Brough and the documents admitted into evidence (Exhibits 1 through and including 9).

Summary of Evidence:

Mr. Brough submitted a Tow Hearing Request Form, Exhibit 1, and a typewritten note, Exhibit 2, regarding the tow of his vehicle on April 17, 2012. Mr. Brough writes that his vehicle had been parked in front of his residence for the past 6 months. Mr. Brough writes that he was out of town for business when a citation was issued for having expired tags on the vehicle. Mr. Brough writes that the vehicle was towed before he returned from his trip. Mr. Brough writes that the vehicle had expired tags because it was not being used and he wasn't aware that it couldn't be parked on the street with expired tags. Mr. Brough appeared at the hearing and testified consistent with his statement in Exhibit 2. Mr. Brough testified that he was unaware that a tow notice was attached to the vehicle, and only knew about the citation.

The City submitted Exhibits 6 through, and including, 9 regarding the tow of Mr. Brough's vehicle. Exhibit 6 is a Tow Hearing Report submitted by the Office of Transportation Abandoned Auto's section. The report indicates that Mr. Brough's vehicle was located on Thursday, April 12th at 10:15 a.m. parked on the roadway. The report indicates that the vehicle was warned, with a sticker on the driver's side window, at that time for failure to display current registration. The report indicates that on April 17, 2012, at 10:55 a.m., the vehicle remained in the same location. The vehicle was ordered towed at that time. Exhibit 7 is a copy of the citation issued to Mr. Brough on April 17, 2012. Exhibit eight contains three photos of Mr. Brough's vehicle prior to towing.

Applicable Law:

The Hearings Officer must find a tow is valid if the Hearings Officer finds that 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 16.90.005 defines, for the purposes of towing a vehicle in Portland, the term “abandoned.” A vehicle is deemed to be abandoned if the vehicle remains in violation for more than 24 hours and if the vehicle does not have a lawfully affixed, unexpired registration plate, or fails to display current registration or the vehicle appears inoperative or disabled. An “abandoned” vehicle may be towed and stored at the owner’s expense if the vehicle is parked in the public right-of-way. (PCC 16.30.210 A.10) A vehicle may be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle (PCC 16.30.225 B.).

Findings of Fact and Conclusions of Law:

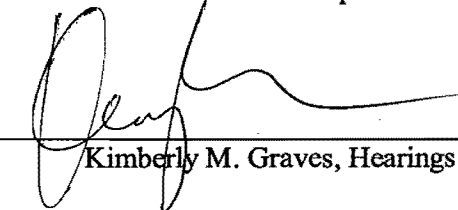
The Hearings Officer finds that on April 12, 2012, Mr. Brough’s vehicle was parked on the roadway at a time when it did not have current vehicle registration tags. The Hearings Officer finds that Mr. Brough’s vehicle remained on the roadway with expired registration tags for greater than 24 hours and that the vehicle if the PCC definition of an abandoned vehicle. The Hearings Officer finds that on April 12, 2012, a tow warning notice was properly attached to Mr. Brough’s vehicle. The Hearings Officer finds that on April 17, 2012, Mr. Brough’s vehicle remained on the roadway and was subject to tow as an abandoned vehicle. The Hearings Officer finds the tow of Mr. Brough’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: May 7, 2012
KMG:jeg/cl



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 6441

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Brough, Jason	Received
2	Attached written statement	Brough, Jason	Received
3	Tow Desk printout	Hearings Office	Received
4	Notice of Hearing	Hearings Office	Received
5	Statement or Rights and Procedures	Hearings Office	Received
6	Tow Hearing Report	Abandoned Autos	Received
7	Parking Violation	Abandoned Autos	Received
8	Photos	Abandoned Autos	Received
9	Tow Detail	Abandoned Autos	Received