



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF JOHNNY WEST

CASE NO. 1120085

DESCRIPTION OF VEHICLE: Acura Legend (No plates, VIN #JH4KA690SC009494)

DATE OF HEARING: May 15, 2012

APPEARANCES:

Mr. Johnny West, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. West appeared late at his scheduled hearing. Mr. West contacted the Hearings Office on May 15, 2012 at approximately 1:18 p.m. and informed a Hearings Clerk that he would be arriving at 1:52 p.m. The Hearings Officer opened Mr. West's hearing at 1:45 p.m. and continued it until another scheduled tow hearing was completed. At approximately 1:55 p.m., the Hearings Officer re-opened the hearing for Mr. West. The Hearings Officer makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 10). Mr. West did appear after the Hearings Officer announced a decision in this case. The Hearings Officer repeated, for Mr. West, the reasons for making this decision.

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 16.30.100 A.2, PCC 16.30.210 A.5 and PCC 16.30.220 F. PCC 16.30.100 A.2 grants authority to a police officer to order a vehicle towed if the vehicle is stolen and is on either public or private property and the vehicle is towed/stored at the owner's expense. PCC 16.30.210 A.5 authorizes a police officer to order a vehicle towed and held at the expense of the owner if the vehicle is located on the public right-of-way and the vehicle has been reported stolen. PCC 16.30.220 F authorizes a police officer, without prior notice, to order a vehicle towed if the police officer reasonably believes the vehicle is stolen.

Mr. West, in Exhibit 1, states that he believes the May 5, 2012 tow of his vehicle (Acura Legend) is not valid because, "I was not notified prior to the police authorized tow of my vehicle."

Portland Police Officers associated with the tow of Mr. West's vehicle submitted written reports. (Exhibits 5, 6, 7, 8 and 10) Exhibits 6 and 7 are police reports showing that Mr. West reported his vehicle stolen. Exhibits 5 and 8 are police reports related to the recovery of Mr. West's vehicle on May 5, 2012. Exhibit 10 is an "Owner Notification."

The Hearings Officer finds that Mr. West's vehicle was reported stolen on/or about April 21, 2012. (Exhibit 7) The Hearings Officer finds that Mr. West's vehicle was recovered as a stolen vehicle, from private property, on May 5, 2012. (Exhibits 5 and 8). The Hearings Officer finds that the tow of Mr. West's vehicle was in conformance with all relevant laws/rules. The Hearings Officer finds the City of Portland ordered tow of Mr. West's vehicle on May 5, 2012 is valid.

The Hearings Officer finds that notification of the owner of a reported stolen vehicle, upon recovery, is not a legal requirement of the City. The Hearings Officer finds that the police officer who took Mr. West's stolen vehicle report stated, "I advised West that when the car was found we would try to call him and if we were unable to reach him his car would be towed at his expense." (Exhibit 7) The Hearings Officer finds that the Police Bureau did attempt to contact Mr. West on May 5, 2012; both attempts were unsuccessful. (Exhibit 10)

ORDER:

1. The City of Portland ordered tow of Mr. West's vehicle (Acura Legend) on May 5, 2012 is valid.
2. All towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: May 16, 2012
GJF:c1



Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 7391

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	West, Johnny	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Investigation Report - Officer Hern	Police Records	Received
6	Control Copy	Police Records	Received
7	Investigation Report - Officer Willard	Police Records	Received
8	Investigation Report - Officer Hern	Police Records	Received
9	Towed Vehicle Record	Police Records	Received
10	Owner Notification	Police Records	Received