

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF JOHN EGLY-RUSSELL

CASE NO. 1120114

DESCRIPTION OF VEHICLE: Triumph Cycle (OR M687923)

DATE OF HEARING: June 26, 2012

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Egly-Russell was sent a Notice of Hearing on June 19, 2012 (Exhibit 3). On June 21, 2012, Mr. Egly-Russell submitted a request to reschedule indicating that he is not available to attend hearings on Tuesdays and Thursdays (Exhibit 5). The Hearings Officer schedules tow hearing on Tuesdays and Thursdays. The Hearings Officer denied the request to reschedule the Egly-Russell tow appeal hearing. Mr. Egly-Russell did not contact the Hearings Office after the submission of Exhibit 5 and the tow hearing held at 1:15 PM on June 26, 2012. Mr. Egly-Russell did not appear at the June 26, 2012 hearing. The Hearings Officer makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 8).

Mr. Egly-Russell submitted a request for a tow appeal hearing and set forth his argument for believing that the tow of his Triumph motorcycle (OR M687923) was towed from SW King Avenue between Burnside and Yamhill on June 7, 2012 (Exhibit 1). Mr. Egly-Russell stated that the reason that the tow of his vehicle was not valid was that "no 24 hour notice or barricades on location prior to the tow." (Exhibit 1, Section A, paragraph 6).

The Parking Enforcement Officer who ordered Mr. Egly-Russell's Triumph motorcycle towed on June 7, 2012 submitted various documents into the evidence (Exhibits 5, 6, 7 and 8). Exhibit 6 is a "Tow Hearing Report" where the Parking Enforcement Officer states, in the narrative section, that

"2 barricades 50' were verified by M107 @ 9:44 AM SR 240 on 6/6/12. Pictures attached were taken by maintenance 6/6/12 @ 08:18 and 08:35 AM by Garth Rand after he covered both zone signs and put out the 2 barricades."

Exhibit 7 is a copy of a City of Portland Parking Violation. The City of Portland Parking Violation indicates that Mr. Egly-Russell's Triumph motorcycle was ordered towed at 9:46 AM on June 7, 2012.

Exhibit 8 contains three pages of color photographs. The first page of Exhibit 8 contains four color photographs showing the Egly-Russell Triumph that was towed on June 7, 2012. The second and third pages of Exhibit 8 are photographs taken on June 6, 2012 at 08:18 AM and 08:35 AM. The second page photograph (08:18 AM) shows a light colored sedan parked at the corner and a darker vehicle parked behind it. Two barricade signs are clearly visible on the second page photograph on the sidewalk in close proximity to the sedan and darker colored vehicle. The third page photograph (08:35 AM) shows a motorcycle in the foreground and a dark colored SUV with two cargo containers on top and a number of decals on the back window. Also visible on the third page photograph are two barricade No Parking signs. The Hearings Officer finds that motorcycle shown on page three is the same motorcycle as shown on the first page of Exhibit 8.

The Hearings Officer, to find the tow of Mr. Egly-Russell's Triumph motorcycle (OR M687923) valid, the Hearings Officer must find that the Parking Enforcement Officer followed the laws/rules relevant to 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 16.30.210 A.1, PCC 16.30.210 D, and PCC 16.30.220 B. PCC 16.30.210 A.1 authorizes a Parking Enforcement Officer to order a vehicle towed and stored, at the owner's expense, if the vehicle is parked in any public right-of-way and the vehicle is parked in violation of any temporary or permanent parking restriction. PCC 16.30.210 D states that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.220 B permits a Parking Enforcement Officer to order a vehicle towed, without prior notice, if the vehicle is illegally parked in a posted restricted space/zone. PCC 16.30.210 D, in relevant part, states that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter zone.

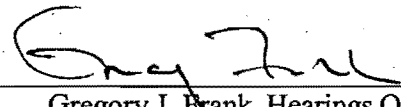
The Hearings Officer finds that Mr. Egly-Russell asserted that the tow of his Triumph motorcycle (OR M687923) was not valid because temporary No Parking signs were not placed in the vicinity of the motorcycle 24 hours prior to the tow. The Hearings Officer finds that the photographs (pages two and three of Exhibit 8) clearly show Mr. Egly-Russell's Triumph motorcycle (OR M687923) between the hours of 8:18 AM and 8:35 AM on June 6, 2012. The Hearings Officer finds Mr. Egly-Russell's Triumph motorcycle (OR M687923) was ordered towed, by the Parking Enforcement Officer, at 9:46 AM. The Hearings Officer finds that temporary No Parking signs were in close proximity to Mr. Egly-Russell's Triumph motorcycle (OR M687923) more than 24 hours prior to the motorcycle being ordered towed. The Hearings Officer finds that the Parking Enforcement Officer followed all relevant laws/rules when ordering Mr. Egly-Russell's Triumph motorcycle (OR M687923) towed on June 7, 2012. The Hearings Officer finds that the tow of Mr. Egly-Russell's Triumph motorcycle (OR M687923) on June 7, 2012 is valid.

ORDER:

1. The City of Portland ordered tow of Mr. Egly-Russell's Triumph motorcycle (OR M687923) on June 7, 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: June 29, 2012
 GJF:c2/cl


 Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement
 Tow Number: 9082

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Egly-Russell, John	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 - Request to Reschedule Form	Egly-Russell, John (friend of)	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation	Parking Enforcement	Received
8	Photos	Parking Enforcement	Received