



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF EMILE MARTINUS RIVERA, JR.

CASE NO. 1120071

DESCRIPTION OF VEHICLE: Ford F-150 (OR CZHU)

DATE OF HEARING: May 3, 2012

APPEARANCES:

Ms. Cheryl Rivera, Authorized Representative for Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Rivera appeared at the hearing and testified on behalf of Appellant. 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. Rivera and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Mr. Rivera submitted at Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on April 9, 2012. Mr. Rivera writes, "There was nothing indicating that parking was illegal or not allowed in that area." Ms. Rivera appeared and testified that she was visiting a friend, and was told by the friend that it was okay to park where she was parked. Ms. Rivera stated that there is clear signage prohibiting parking in other areas on the block, but nothing specific to the area where she was parked. Ms. Rivera stated that she parked on the east side of the street, and submitted photos showing the area where the vehicle was parked. (Exhibit 9)

The City submitted Exhibits 5 and 6 for the Hearings Officer's consideration. Exhibit 5 is an Investigation Report which indicates that Mr. Rivera's vehicle was towed on April 9, 2012, because it was a traffic hazard. The narrative portion of the report reads, "radio dispatched to hazard call at listed location. Upon arrival, I observed a silver Ford pickup parked on the west side of SW 63rd Ave. just north of Palatine St. The shoulder is not wide enough for a vehicle to park and have an open lane of traffic. The northbound lane of SW 63rd Ave. had 3-4 feet before the center line. The truck was unoccupied and locked." Exhibit 6 is the Towed Vehicle Record indicating again that the vehicle was towed because it was a hazard.

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. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.20.120 Q, PCC 16.30.210 A.2 and PCC 16.30.220 A and D. PCC 16.20.120 Q states that it is unlawful to park or stop a vehicle in a manner that creates a traffic hazard impeding the safe movement of vehicular or pedestrian traffic. PCC 16.30.210 A.2 states that a vehicle may be towed and held at the expense of the owner or person entitled to possession thereof if the vehicle is in the public right-of-way and the vehicle is parked/stopped unlawfully in a manner that may be hazardous to traffic. PCC 16.30.220 A authorizes a police officer to order a vehicle towed, without prior notice, if the vehicle is impeding or likely to impede the normal flow of vehicular traffic. PCC 16.30.220 D permits a police officer to order a vehicle towed, without prior notice, if the vehicle poses an immediate danger to public safety.

Findings of Fact and Conclusions of Law:

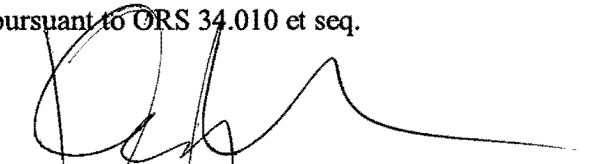
The Hearings Officer finds that on April 9, 2012, Mr. Rivera's vehicle was parked on the east side of SW 63rd Avenue in an area which created a hazard for other traffic. The Hearings Officer finds that the location of Mr. Rivera's vehicle impeded or was likely to impede the normal flow of vehicular traffic. The Hearings Officer finds the tow of Mr. Rivera's vehicle to be valid.

Order:

Therefore, it is ordered that all towing and storage charges against the vehicle, and an administrative fee, if applicable, shall remain the responsibility of the appellant.

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

Dated: May 9, 2012
KMG:rs



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 5929

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Rivera, Emile Martinus	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	Police Records	Received
6	Towed Vehicle Record	Police Records	Received
7	Request to Reschedule Form	Rivera, Emile Martinus	Received
8	Hearing Notice	Hearings Office	Received
9	Photos	Rivera, Cheryl	Received