



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF GAVIN BRAMLEY, ZIPCAR

CASE NO. 1120102

DESCRIPTION OF VEHICLE: Mazda 3 (OR 446FFR)

DATE OF HEARING: June 19, 2012

APPEARANCES:

Mr. Gavin Bramley, on behalf of Appellant, ZipCar

Officer Deborah Barkley, on behalf of Parking Enforcement

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Bramley appeared at the hearing and testified on behalf of ZipCar. Ms. Deborah Barkley 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. Bramley and the documents admitted into evidence (Exhibits 1 through and including 9).

Summary of Evidence:

Mr. Bramley submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of a ZipCar on May 29, 2012. Mr. Bramley wrote in Exhibit 1 that the car was towed from a "dedicated onstreet space on NW 23rd and Marshall." Mr. Bramley indicated that there was no prior notice given to ZipCar about the tree trimming service or the temporary no parking zone. Mr. Bramley appeared at the hearing and submitted a copy of the Administrative Rules related to Carsharing, Exhibit 9. Mr. Bramley testified that the rule, in section VIII. Enforcement, require the city to notify ZipCar when temporary no parking restrictions affect a dedicated carshare parking space. Mr. Bramley testified that ZipCar did not receive any notice about the temporary parking restrictions on NW 23rd and Marshall prior to the tow of the car. Mr. Bramley stated that the car would have been moved, if ZipCar had been notified about the restriction.

Ms. Barkley appeared and testified on behalf of the City. Ms. Barkley testified that on May 29, 2012, she received a request to tow a ZipCar which was parked in a temporary no parking zone. Ms. Barkley testified that the request was received at approximately 7:30 a.m. on May 29, 2012. Ms. Barkley testified that the signs in the area were placed and verified on May 25, 2012, at 11:07 a.m. Ms. Barkley testified that she took four photos of

the area prior to towing the vehicle. The photos are in the record as Exhibit 8. In Exhibit 8, the no parking sign is clearly visible and indicates that parking is restricted on May 29, 2012, and May 30, 2012 between 6:00 a.m. and 5:00 p.m. The photos show the ZipCar parked next to the no parking sign. Ms. Barkley testified that at the time of the tow she asked "dispatch" to contact ZipCar and let them know that they needed to move their vehicle immediately to avoid having it towed. Ms. Barkley testified that she did not place or verify the signs in the area, so she is not sure whether ZipCar was notified when the signs were placed.

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.

Transportation Policies and Administrative Rules (TRN) 3.309 Carsharing Administrative Rules provides, in Section VIII, that:

"The City is responsible for notifying carsharing organizations in advance of scheduled events, street cleaning or street repairs that require on-street vehicles to be moved. Parking Enforcement will notify the carsharing organization prior to citing or towing carsharing vehicles in assigned spaces, and as soon as the information is available."

Findings of Fact and Conclusions of Law:

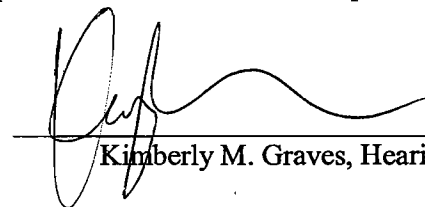
The Hearings Officer finds that section TRN 3.309 (VIII) modifies the rules found in the PCC related to the towing of vehicles parked in temporary no parking zones. The Hearings Officer finds that TRN 3.309 (VIII) requires the city to notify ZipCar when a temporary no parking zone is installed which affects a dedicated carsharing space. The Hearings Office finds that on May 25, 2012, a temporary no parking zone was installed which affected the dedicated carsharing space located at NW 23rd and Marshall. The Hearings Office finds Mr. Bramley credible in his statement that ZipCar was not notified when the zone was installed, and that ZipCar was unaware that their vehicle needed to be moved prior to May 29, 2012. The Hearings Officer finds that the city's failure to notify ZipCar of the temporary no parking zone is a violation of the requirements of TRN 3.309 (VIII) and that the tow of the ZipCar vehicle on May 29, 2012 is 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: June 22, 2012
KMG:c1/c2



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 8624

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

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Bramley, Gavin	Received
2	Passenger Registration	Bramley, Gavin	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Notice of Rights and Procedures	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation #HA09127899	Parking Enforcement	Received
8	Pictures	Parking Enforcement	Received
9	Carsharing Administrative Rules	Bramley, Gavin	Received
10	Tow receipts	Bramley, Gavin	Received