

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF CHRISTINE CHATFIELD

CASE NO. 1120076

DESCRIPTION OF VEHICLE: Subaru Legacy (OR 799CJJ)

DATE OF HEARING: May 8, 2012

APPEARANCES:

Christine Chatfield, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Chatfield appeared at the hearing and testified on her 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 Ms. Chatfield and the documents admitted into evidence (Exhibits 1 through and including 9).

Summary of Evidence:

Ms. Chatfield submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on April 25, 2012. Ms. Chatfield writes that she believes her vehicle was towed wrongfully. Ms. Chatfield writes that she parked her vehicle around midnight on April 25, 2012. Ms. Chatfield writes that the parking space in front of her was empty and clearly marked with a "no parking" sign, but that the space she was in did not have any no parking signage. Ms. Chatfield writes that when she returned and found her vehicle gone, she saw a portable no parking sign standing where her vehicle had previously been parked. Ms. Chatfield appeared at the hearing and submitted photos of the area where her vehicle was parked. (Exhibit 8) Ms. Chatfield stated that she took the photos of the area around 9:30 or 10:00 a.m. on the day that her vehicle was towed. The photos show a no parking bag placed over an unidentified sign. The photos also show a black plastic bag with no parking information placed over a different unidentified sign. The photos show that the sign covered with the black plastic bag is located next to where Ms. Chatfield says that she parked her vehicle.

The City submitted Exhibits 5 through, and including, 7 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report which indicates that Ms. Chatfield's vehicle was towed on April 25, 2012, from the east side of NW 22nd Place. The narrative portion of the report indicates that 40 feet of parking space was reserved for a construction company from March 20, 2012, through June 18, 2012. The report indicates that the barricades were

re-verified on April 24, 2012, at 8:34 a.m. The report indicates that Ms. Chatfield's vehicle was parked in one of the reserved spaces and "immediately in front of the truck loading zone on the corner of NW 22nd Pl. and W Burnside." The report indicates that there was a No parking sign at the "north end of the truck loading zone on the corner." Exhibit 6 is a copy of the citation issued to Ms. Chatfield. Exhibit 7 contains four photos related to the tow of Ms. Chatfield's vehicle. The photos show two signs indicating that parking is restricted. The signs are located approximately 1 parking space in front of Ms. Chatfield's vehicle, and approximately 10 feet behind Ms. Chatfield's vehicle. The photos were taken at the time of the tow of Ms. Chatfield's vehicle.

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 16.30.210 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 conspicuously posted restricted space/zone.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on April 25, 2012, just after midnight, Ms. Chatfield parked her vehicle on NW 22nd Pl. The Hearings Officer finds that construction was taking place in the area of NW 22nd Pl. and that temporary no parking signs were placed in the area. The Hearings Officer finds that the exact signage present in the area when Ms. Chatfield parked her vehicle is unclear. The Hearings Officer finds Ms. Chatfield credible in her statement that she does not believe the southernmost sign on the block was present when she parked her vehicle. The Hearings Officer notes that at least one permanent sign on the block was covered only with a black trash bag, and without any information related to parking restrictions. The Hearings Officer notes that the Parking Enforcement report references a truck loading zone, which is not depicted in any of the photos. The Hearings Officer finds that questions remain regarding the signage in place at the time that Ms. Chatfield parked her vehicle. The Hearings Officer finds that the City has failed to meet its burden with respect to the towing of Ms. Chatfield's vehicle on April 25, 2012. The Hearings Officer finds the tow of Ms. Chatfield's vehicle to be invalid.

Order:

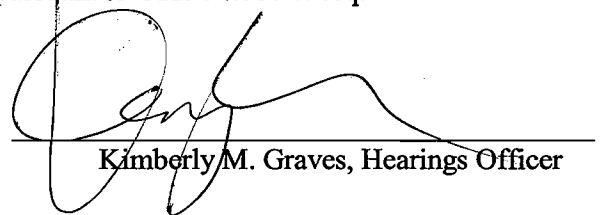
Therefore, the Hearings Officer finds that the owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage 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: May 10, 2012

KMG: c2

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 6867

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 | Chatfield, Christine | 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 Report | Parking Enforcement | Received |
| 6 | Parking Violation #HA09704340 | Parking Enforcement | Received |
| 7 | Photos | Parking Enforcement | Received |
| 8 | Photos | Chatfield, Christine | Received |
| 9 | Tow Receipts | Chatfield, Christine | Received |