



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: www.portlandoregon.gov/auditor/hearings



HEARINGS OFFICER'S ORDER

APPEAL OF STEPHAN PHAR

CASE NO. 1120097

DESCRIPTION OF VEHICLE: Lincoln Town Car (OR 567EUH)

DATE OF HEARING: May 29, 2012

APPEARANCES:

Mr. Stephan Phar, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Phar appeared at the hearing and testified on his 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 Phar and the documents admitted into evidence (Exhibits 1 through and including 8b).

Summary of Evidence:

Mr. Phar submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on May 16, 2012. Mr. Phar indicates in Exhibit 1 that the vehicle was parked in front of his house and was not abandoned. Mr. Phar writes that the vehicle runs, but that the "blinkers" were not working. Mr. Phar writes that he can get new tags for the vehicle when he gets it back. Mr. Phar appeared at the hearing and stated that the car was not abandoned and that it runs. Mr. Phar stated that he saw the tow notice and was attempting to find somewhere to park the vehicle off the roadway when it was towed. Mr. Phar testified that the tags on the vehicle just expired at the end of April.

The city submitted Exhibits 1 through, and including, 8b for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report from the Office of Transportation Abandoned Autos Section indicating that Mr. Phar's vehicle was located on May 11, 2012 at 8:53 a.m. on SE 41st. The report indicates that the vehicle had expired tags. The report indicates that a 72 hour tow warning notice was affixed to the driver's side window indicating that the vehicle lacked current registration tags or a trip permit. The report further indicates that on May 16, 2012, the officer returned and found the vehicle parked in the same location and still in violation for not having current tags. The report indicates that the tow warning notice was on the seat inside the car. Exhibit 7 and 7a illustrate the condition of the vehicle on the date that it was towed. The exhibits contain a citation and photos of the vehicle prior to towing. In the photos the expired tags on the vehicle are clearly visible. Exhibits 8 and 8a relate to the

condition of the vehicle on May 11, 2012. The Exhibits contain a citation and photos of the vehicle. In the photos the expired tags are clearly visible, and the tow warning notice is visible on the window of the vehicle.

Applicable Law:

The Hearings Officer must find a tow is valid if the Hearings Officer finds that 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 16.90.005 defines, for the purposes of towing a vehicle in Portland, the term "abandoned." A vehicle is deemed to be abandoned if the vehicle remains in violation for more than 24 hours and if the vehicle does not have a lawfully affixed, unexpired registration plate, or fails to display current registration or the vehicle appears inoperative or disabled. An "abandoned" vehicle may be towed and stored at the owner's expense if the vehicle is parked in the public right-of-way. (PCC 16.30.210 A.10) A vehicle may be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle (PCC 16.30.225 B).

Findings of Fact and Conclusions of Law:

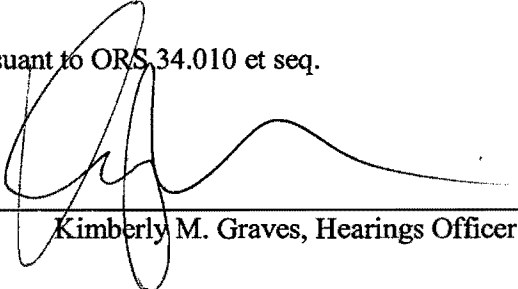
The Hearings Officer finds that on May 11, 2012, Mr. Phar's vehicle was parked on a public right-of-way at a time when it did not have current registration tags or a trip permit. The Hearings Officer finds that on May 11, 2012, a Tow Warning notice was properly affixed to the vehicle. The Hearings Officer finds that on May 16, 2012, greater than 72 hours after notice of intent to tow was affixed to the vehicle, Mr. Phar's vehicle remained on the public right-of-way without current registration tags. The Hearings Officer finds the tow of Mr. Phar's vehicle as an abandoned vehicle is 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: June 1, 2012
KMG:c1



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 7984

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Phar, Stephan	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Abandoned Autos	Received
6	Detail for Case AUT2012-004360	Abandoned Autos	Received
7	Parking Violation HA09615531 Photos	Abandoned Autos	Received
7a	Parking Violating HA09615531	Abandoned Autos	Received
7b	Photo	Abandoned Autos	Received
8	Parking Violation HA0894949167 Photos	Abandoned Autos	Received
8a	Parking Violation HA08949167	Abandoned Autos	Received
8b	Tow Warning	Abandoned Autos	Received