



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF HARRY SUTTON

CASE NO. 1120099

DESCRIPTION OF VEHICLE: Ford Focus (OR 257EDR)

DATE OF HEARING: June 7, 2012

APPEARANCES:

Ms. Sharon Overbey, Authorized Representative for Appellant

Officer Deborah Barkley, on behalf of the City

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Overbey appeared at the hearing and testified on behalf of the Appellant, Mr. Harry Sutton. Ms. 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 Ms. Overbey and Ms. Barkley, and the documents admitted into evidence (Exhibits 1 through and including 17).

Summary of Evidence:

Mr. Sutton submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle (Ford Focus, OR Z57EDR; hereafter "the Vehicle") on May 23, 2012, from SW Yamhill and SW King. Ms. Overbey was listed as an authorized representative in Exhibit 1. Mr. Sutton included a type-written letter, Exhibit 2, with his request which indicates that the Vehicle was parked in a "Zone A" parking area. Mr. Sutton writes that there was a newly installed fire hydrant in the parking area which did not have any "yellow lines on the sidewalk." Mr. Sutton also indicates that there was a "parking sign indicating a valid space." Mr. Sutton included with his letter a copy of a citation and tow receipt, Exhibit 3. Mr. Sutton also included four photos of the area where the Vehicle was parked prior to towing, Exhibit 4. A letter from Ms. Overbey was also included with the original request for a tow hearing. The type-written letter from Ms. Overbey, Exhibit 5, indicates that Ms. Overbey lives near where the Vehicle was parked prior to towing, and that the signage in the area is confusing. Ms. Overbey writes that numerous cars park in the same location, where the Vehicle was towed from, and the other vehicles are not towed. Ms. Overbey writes that she spoke with another parking enforcement officer who indicated that the signage was confusing and that that particular officer would not tow a vehicle from the location where the Vehicle had been parked. Ms. Overbey also writes that she contacted the city and the city representative informed her that the Zone

A sign should have been moved, but has not been. Additional photos of the area were included with Ms. Overbey's letter.

Ms. Overbey appeared at the hearing and testified that the signage in the area is confusing and that people park on the corner of SW Yamhill and SW King on a regular basis. Ms. Overbey testified that there is a parking sign pointing in the direction of the fire hydrant which makes people believe that it is an acceptable place to park. Ms. Overbey testified that in the area there are signs indicating that parking is prohibited near a fire hydrant, but there is no signage regarding parking near this fire hydrant. Ms. Overbey submitted additional photos of the area.

The City submitted Exhibits 10 through, and including, 14 for the Hearings Officer's consideration. Exhibit 10 is a Tow Hearing Report submitted by the Office of Transportation indicating that the Vehicle was towed on May 23, 2012, for the violation of "fire hydrant." Exhibits 11 and 13 are copies of the citation issued to Mr. Sutton on May 23, 2012. Exhibit 12 and 14 contain photos of the Vehicle prior to towing. Ms. Barkley appeared and testified on behalf of the city. Ms. Barkley testified that on May 23, 2012, she cited a vehicle which was parked on the south side of SW Yamhill between SW King and SW St. Clair for the violation of blocking a fire hydrant. Ms. Barkley testified that the fire hydrant was "totally blocked" by the vehicle. Ms. Barkley referred to the photos in Exhibit 14 to show that the fire hydrant was next to the vehicle, at approximately the rear of the front tire. Ms. Barkley testified that the state requires that 10 feet of space be left between a vehicle and a fire hydrant. Ms. Barkley testified that a yellow curb is not a requirement. Ms. Barkley pointed out that the signage should not have been confusing because it was the same as if the fire hydrant was located in the middle of a block. Ms. Barkley stated that when a fire hydrant is located in the middle of a block, there is not specific signage hung to indicate that the 20 feet surrounding the hydrant is a no parking zone.

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 16.20.130C provides that it is unlawful to park or stop a vehicle within 10 feet of any fire hydrant, even when not marked by traffic control devices. PCC 16.30.210A9 provides that a vehicle may be towed and held at the expense of the owner from any public right-of-way when the vehicle is parked in violation of any parking regulation. PCC 16.30.220E permits any authorized officer to tow a vehicle, without prior notice, when the vehicle is illegally parked within 10 feet of a fire hydrant.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that that on May 23, 2012, the Vehicle was parked in a manner which blocked access to a fire hydrant and did not allow for 10 feet of clearance next to the fire hydrant. The Hearings Officer finds that the tow of the Vehicle is valid.

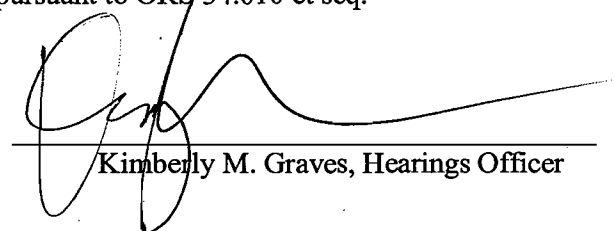
Order:

Therefore, it is ordered that all towing and storage charges against the Vehicle shall remain the responsibility of the Vehicle's owner.

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

Dated: June 8, 2012
KMG:c1/c2

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 8337

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Sutton, Harry	Received
2	5/24/12 letter	Sutton, Harry	Received
3	Parking Violation and receipt	Sutton, Harry	Received
4	Photos	Sutton, Harry	Received
5	5/24/12 letter from Sharon Overbey	Sutton, Harry	Received
6	Photos	Sutton, Harry	Received
7	Tow Desk printout	Hearings Office	Received
8	Hearing Notice	Hearings Office	Received
9	Statement of Rights	Hearings Office	Received
10	Tow Hearing Report	Parking Enforcement	Received
11	Parking Violation #HA09127819	Parking Enforcement	Received
12	Photos	Parking Enforcement	Received
13	Parking Violation #HA09127819	Parking Enforcement	Received
14	Color Photos	Parking Enforcement	Received
15	5/24/12 Letter	Sharon Overbey	Received
15a	Photos	Sharon Overbey	Received
16	5/24/12 Letter from Sharon Overbey	Sharon Overbey	Received
17	Photos	Sharon Overbey	Received