

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF LILA MILES

CASE NO. 1120104

DESCRIPTION OF VEHICLE: Toyota Camry (OR VXW895)

DATE OF HEARING: July 10, 2012

APPEARANCES:

Ms. Lila Miles, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Miles 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. Miles and the documents admitted into evidence (Exhibits 1 through and including 13).

Summary of Evidence:

Ms. Miles submitted a Tow Hearing Request Form, Exhibit 1, and a typewritten letter regarding the tow of her vehicle on May 30, 2012 from NW Slavin Road. Ms. Miles writes in her letter that prior to towing her car was parked near the dead end of SW Slavin Road where she lives. Ms. Miles writes that she has been parking in the same area for many months and that there has never been any issue. Ms. Miles writes that there are no "no parking" signs in the area and that the street is wide enough for traffic to pass through even with cars parked on both sides of the roadway. Ms. Miles also submitted a letter from the apartment manager for the building where she lives, Exhibit 3. The letter indicates that residents routinely park in the area where Ms. Miles' vehicle was parked prior to towing. Ms. Wheeler appeared at the hearing and submitted two photos, Exhibits 12 and 13, which show the area where her vehicle was parked prior to towing. Ms. Wheeler testified that her vehicle was parked prior to towing in the location shown in the photos. The photo shows a grey/tan vehicle parked along the side of the roadway next to a hillside. The vehicle is parked such a way that the wheels on the driver's side are on the roadway, and the wheels on the passenger side are in the dirt beside the road. The vehicle appears to be parked near a bend in the road.

The city submitted Exhibits 7 through, and including, 8 regarding the tow of Ms. Miles' vehicle. Exhibit 7 is a Towed Vehicle Record showing that the vehicle was towed because it was a hazard. Exhibit 8 is an Investigation Report which reads:

"we have received complaints of parking issues from the nearby apartments around the 5100 Block of SW Slavin Rd. While enforcing the parking laws of the area, the above vehicle was parked partially into the SB traffic lane of SW Slavin Rd."

The report from the officer does not contain any photos taken of the vehicle prior to towing.

Applicable Law:

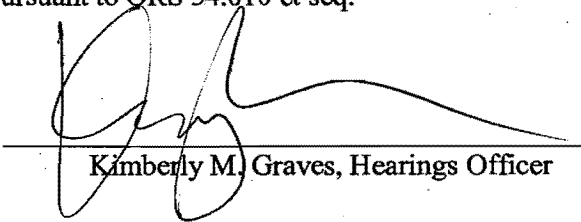
The Hearings Officer must find a tow is valid if the person ordering the tow followed the relevant laws/rules. In this case, the relevant laws/rules can be found in the Portland City Code ("PCC") Title 16. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.20.120 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.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on May 30, 2012, Ms. Miles' vehicle was parked on SW Slavin Road. The Hearings Officer finds, based on the officer's written report and the photos submitted by Ms. Miles, that the vehicle was parked in a manner which created a hazard for other vehicles and/or pedestrians using the roadway. The Hearings Officer finds that Ms. Miles' vehicle, as parked, impeded or was likely to impede the normal flow of vehicular or pedestrian traffic. The Hearings Officer finds the tow of Ms. Miles' vehicle is valid.

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

Dated: July 12, 2012
KMG:c1


Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 8672

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Miles, Lila	Received
2	Letter	Miles, Lila	Received
3	5/31/12 letter from Tony Swank	Miles, Lila	Received
4	Tow Desk printout	Hearings Office	Received
5	Hearing Notice	Hearings Office	Received
6	Notice of Rights and Procedures	Hearings Office	Received
7	Towed Vehicle Record	Police Records	Received
8	Investigation Report	Police Records	Received
9	Tow Hearing - Request to Reschedule Form	Miles, Lila	Received
10	Hearing Notice	Hearings Office	Received
11	5/15/12 letter	Miles, Lila	Received
12	Photo	Miles, Lila	Received
13	Photo	Miles, Lila	Received