



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF STEVEN RAY SLADE

CASE NO. 1120133

DESCRIPTION OF VEHICLE: Mazda B3000 (OR UPW026)

DATE OF HEARING: July 24, 2012

APPEARANCES:

Mr. Steven Ray Slade, Appellant

Deputy Debbie Barkley, on behalf of City

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Slade 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 Mr. Slade, Deputy Barkley and the documents admitted into evidence (Exhibits 1 through and including 7).

Summary of Evidence:

Mr. Slade submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on July 5, 2012. In Exhibit 1, Mr. Slade writes "only the bumper was in the driveway. The vehicle ahead didn't give room to park." Mr. Slade appeared at the hearing and indicated that he has had significant difficulty in finding a parking space since moving into his current apartment. Mr. Slade testified that he cannot walk long distances due to a disability, and that there are no available disabled spots in the neighborhood. Mr. Slade testified that only the bumper of his vehicle was into the driveway, and that was because the vehicle in front of his didn't pull forward far enough.

Deputy Barkley appeared and testified on behalf of the City. Deputy Barkley testified that on July 5, 2012, she cited and towed Mr. Slade's vehicle because it was blocking a driveway. Ms. Barkley testified that a service request was received from the homeowner to move the vehicle. Ms. Barkley testified that the road and the driveway are narrow and Mr. Slade's vehicle blocked access to the driveway. The City also submitted Exhibits 5 through, and including, 7 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report indicating that Mr. Slade's vehicle was towed on July 5, 2012 at 8:19 a.m. from NW 22nd Place. Exhibit 6 is a copy of the citation issued to Mr. Slade when his vehicle was towed. Exhibit 7 contains two photos of Mr. Slade's vehicle

prior to towing. The photos show that Mr. Slade's vehicle was parked with the rear bumper protruding into the lowered portion of the driveway.

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 16.20.130 V, PCC 16.30.220B and PCC 16.90.105. PCC 16.20.130 V states that it is unlawful to park or stop a vehicle in front of any portion of a driveway ingress/egress to the public right-of-way. PCC 16.90.105 defines a "driveway" for the purposes of Title 16. In summary, PCC 16.90.105 defines a "driveway" as an access extending from a public right-of-way onto private or public lands for the purpose of gaining vehicular access to such areas and reasonably designated at the property line so as to be an obvious open for access. For the purposes of enforcement a driveway extends from one curb return to the other and if winged, includes the wings. PCC 16.30.220 A permits a vehicle to be towed without prior notice and stored, at the owner's expense, when the vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on July 5, 2012, Mr. Slade parked his vehicle in front of a driveway in a manner which impeded the flow of vehicular traffic into and out of the driveway. The Hearings Officer finds that the driveway owner has a right to access their entire driveway, and that calling Parking Enforcement indicates that the owner felt impeded by the location of Mr. Slade's vehicle. The Hearings Officer finds the tow of Mr. Slade's vehicle is valid.

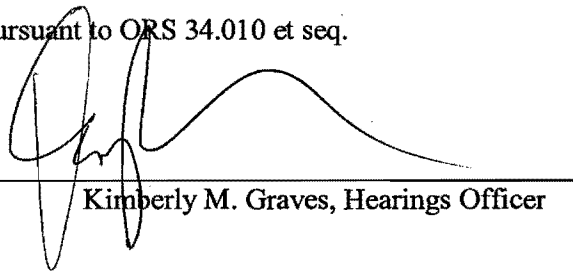
Order:

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: August 2, 2012

KMG:c2/c1



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking
Tow Number: 10573

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Slade, Steven Ray	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 #HA09128493	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received