



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF LISA JACKSON

CASE NO. 1120166

DESCRIPTION OF VEHICLE: Hyundai Sonata (WA 625WDQ)

DATE OF HEARING: September 25, 2012

APPEARANCES:

Lisa Jackson, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Jackson appeared at the hearing and testified on her own behalf. Mr. Erik Watia appeared and testified at the request of Ms. Jackson. 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. Jackson, Mr. Watia and the documents admitted into evidence (Exhibits 1 through and including 6).

Summary of Evidence:

Ms. Jackson submitted Exhibits 1 through, and including, 1g for the Hearings Officer's consideration. Exhibit 1 is a Tow Hearing Request Form regarding the tow of Ms. Jackson's vehicle on September 9, 2012. Ms. Jackson has attached a type-written explanation about why she believes the tow of her vehicle is invalid. Ms. Jackson indicates that there are no "no parking" signs on the side of the roadway where she parked. Ms. Jackson indicates that there were police in the area when she parked, and that the officers did not indicate that she was parking in an unsafe area. Ms. Jackson further indicates that the markings for the bike lane on the side of the roadway were "deteriorated" and "not legible". Also attached to Exhibit 1 is a packet of photos of the area where Ms. Jackson's vehicle was parked prior to towing. Exhibits 1b and 1c are unrelated/illegible and are not considered when determining the lawfulness of the tow. Exhibits 1d through, and including, 1g are copies of rules/regulations related to parking and towing of vehicles. Ms. Jackson appeared at the hearing and reiterated the information contained in her written request. Ms. Jackson added that there were lots of cars parked on the road where she parked and that she didn't feel that her vehicle was a hazard to cars traveling on Marine Dr. Ms. Jackson testified that there are 2 travel lanes on Marine Drive and she feels that cars had adequate space to move around her vehicle. Mr. Watia also reiterated the information contained in Ms. Jackson's written request. Mr. Watia added that the bike lane is approximately 5 feet wide, and that the car was not protruding into the travel lane by very

much. Mr. Watia indicated that a no parking sign would tell drivers that their car was a hazard if parked along the roadway, but that there were no signs indicating that it was hazardous to park along Marine Dr.

The City submitted Exhibits 5 and 6 for the Hearings Officer's consideration. Exhibit 5 is a Towed Vehicle Record showing that Ms. Jackson's vehicle was towed because it was a "hazard". Exhibit 6 is an Investigation Report from the Portland Police Bureau completed by Officer McDaniel. The report indicates that a number of vehicles, including Ms. Jackson's vehicle, were towed on September 9, 2012 from N. Marine Dr and N. Leadbetter. The report indicates that on September 9, 2012 Officer McDaniel was assigned to Kelly Point park for "Hempstock 2012". The officer writes that, "We had spoken with the organizer Paul Stanford throughout the day Saturday (9-8-12) trying to verify he had received a permit from the city to allow parking on N. Marine Dr. He was not able to produce the permit, and parking patrol had no record of it. I informed Mr. Stanford that if the permit was not produced for me to review Sunday morning that we would be enforcing the parking laws along N. Marine Dr." The report further indicates that Mr. Stanford was not able to produce the parking permit for street parking on September 9, 2012. The report reads, "At about 1515 hrs. BOEC advised that complaints were coming in about vehicles parked along N. Marine Dr. at N. Leadbetter that were blocking part of the EB travel lane. I had the Traffic Division and my detail write parking tags for blocking the bicycle lane, and had the vehicles towed as hazards since they were blocking both the bicycle lane and part of the vehicle travel lane."

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. PCC 16.30.220 D permits a police officer to order a vehicle towed, without prior notice, if the vehicle poses an immediate danger to public safety.

Findings of Fact and Conclusions of Law:

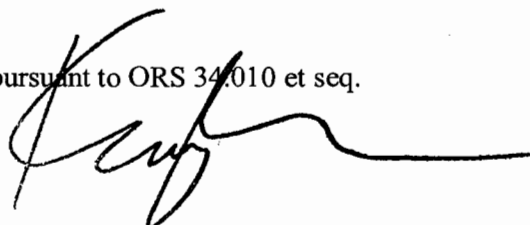
The Hearings Officer finds that no permit was issued to the Hempstalk festival which would allow parking on N. Marine Dr. during the festival. The Hearings Officer finds that Ms. Jackson's vehicle, on September 9, 2012, was parked on N. Marine Dr. in a manner which blocked the bicycle lane and a portion of the lane of travel. The Hearings Officer finds that the manner in which Ms. Jackson's vehicle was parked created a hazard for bicycles and vehicles on the roadway and impeded the normal flow of vehicular traffic. The Hearings Officer finds that the tow of Ms. Jackson's vehicle on September 9, 2012 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: September 27, 2012
KMG:c1/ml



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 13981

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Jackson, Lisa	Received
1a	Photos	Jackson, Lisa	Received
1b	9/10/12 Notice of Towed Vehicle letter	Jackson, Lisa	Received
1c	Parking Violation	Jackson, Lisa	Received
1d	U.S. Dept. of Transportation Manual on Uniform Traffic Control Devices - Chapter 2B. Regulatory Signs	Jackson, Lisa	Received
1e	U.S. Dept. of Transportation Manual on Uniform Traffic Control Devices - Chapter 9C. Markings	Jackson, Lisa	Received
1f	16.30.220 Towing Without Prior Notice	Jackson, Lisa	Received
1g	16.90.032 Bicycle Lane.	Jackson, Lisa	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	Investigation Report	Police Records	Received