



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF ROBERT F. ACKEN

CASE NO. 1120252

DESCRIPTION OF VEHICLE: Toyota Tacoma (OR 364DWB)

DATE OF HEARING: December 27, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Acken did not appear at the hearing on his own behalf. A Notice of Hearing was mailed on December 14, 2012 to the address Mr. Acken provided when he requested his tow hearing. The Notice was not returned by the U.S. Mail Service and Mr. Acken did not contact the Hearings Office to request that the hearing be rescheduled. 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 documents admitted into evidence (Exhibits 1 through and including 7).

Summary of Evidence:

Mr. Acken submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on December 5, 2012 from NW 25th Ave. Mr. Acken writes in Exhibit 1 that "street cleaning notification was different this year." Mr. Acken writes that he did not receive a map with dates indicating when the streets would be cleaned. Mr. Acken writes that he saw signs on his street and moved his car, but he had no idea where he could safely park. Mr. Acken writes that he only uses his car to drive to the grocery store weekly. Mr. Acken writes, "I have difficulty walking and a handicap tag. I was parked far away & couldn't have seen signs."

The City submitted Exhibits 5 through, and including, 7 regarding the tow of Mr. Acken's vehicle. Exhibit 5 is a Tow Hearing Report indicating that Mr. Acken's vehicle was towed on December 5, 2012 at approximately 7:45 a.m. from NW 25th Ave between NW Northrup and NW Overton. The report indicates that the vehicle was towed for violating a temporary no parking restriction. The narrative portion of the report reads, "This Tow was during the time/hrs posted on block face. Signage was verified on 12/3/12 at 5:43 on block face. Multiple signs on block face and clearly posted. This tow was for sweeps and clearly posted hours." Exhibit 6 is a copy of the citation issued to Mr. Acken when his vehicle was towed. Exhibit 7 contains 3 photos related to the tow of Mr. Acken's

vehicle. The photos show a temporary no parking sign posted approximately 1 vehicle length in front of Mr. Acken's vehicle.

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 16.20.640 provides that a vehicle with an official disabled person registration plate or placard may park in any space designated for a vehicle is such permit "subject to on-street storage regulations." PCC 16.20.170 provides that "no person may store . . . a vehicle . . . on public right-of-way or other public property in excess of 24 hours without permission . . ." PCC 16.30.210D provides that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.210A1 provides that a vehicle may be towed from any public right-of-way when the vehicle is parked in violation of a temporary or permanent parking restriction. PCC 16.30.220B provides that an authorized officer may tow a vehicle, without notice, when the vehicle is illegally parked in a conspicuously posted restricted space.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that vehicles displaying an official disabled registration plate or placard are subject to the on-street vehicle storage regulations, and may not remain unattended on the street for greater than 24 hours without being at risk of towing. The Hearings Officer finds that on December 3, 2012 at 5:43 p.m. temporary no parking signs were placed on NW 25th Ave indicating a temporary parking restriction for December 5, 2012. The Hearings Officer finds that the signs were placed greater than 24 hours prior to the enforcement time listed on the signs. The Hearings Officer finds that on December 5, 2012, during the enforcement time listed on the signs, Mr. Acken's vehicle was parked in the area which was subject to the temporary parking restriction. The Hearings Officer finds that on December 5, 2012 a temporary no parking sign was conspicuously posted next to Mr. Acken's vehicle. The Hearing Officer finds that the parking enforcement officer who ordered the tow of Mr. Acken's vehicle followed the relevant rules/laws in the Portland City Code when making that order. The Hearings Officer finds the tow of Mr. Acken's vehicle is valid.

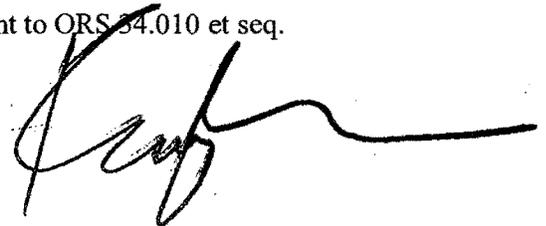
Order:

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: December 28, 2012

KMG:c1/m2



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 19305

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Acken, Robert F.	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	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received