



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF DANIEL LEWIS

CASE NO. 1080201

DESCRIPTION OF VEHICLE: Mercedes 220D (OR 966DPA)

DATE OF HEARING: July 29, 2008

APPEARANCES:

None

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer, on substantial evidence and based upon the record as a whole, and receiving Exhibits 1 through 10 into the record without objection, finds as follows:

The towing officer's report stated that on July 14, 2008 the appellant's vehicle was towed for being parked in a reserved zone (Exhibit 7). The photograph provided by the officer shows a sign indicating no parking in the space from July 14 to July 17 (Exhibit 8).

The appellant stated in his request for a hearing that the no parking sign had expired on July 2, 12 days before his vehicle was towed (Exhibits 1 and 3). The appellant provided a photograph showing what appears to be the same sign as the one the officer showed, but the sign indicates no parking from June 30 to July 2 (Exhibit 10).

The Hearings Officer must decide, based on the evidence presented, what the most probable factual scenario is. When conflicting evidence is presented, the Hearings Officer must weigh the reliability and credibility of the evidence. The Hearings Officer spoke with a representative from the Portland Office of Transportation and requested information concerning the subject sign. Portland Office of Transportation records indicate that the sign in the photograph the officer provided was indeed posted during the time indicated on the sign. The Hearings Officer saw that in the photograph the appellant provided, the sign indicates that Candem Development was the sign's permit holder. Portland Office of Transportation records indicate that Candem Development had not reserved any parking spaces on NW 13th between Couch and Davis during the dates indicated on the sign. The Hearings Officer was also told that temporary no parking signs often have several layers of labels on them, and a label indicating a current parking space reservation could be peeled off a sign to reveal an expired label underneath.

The Hearings Officer finds that it is more probable that the current label on the subject sign had been peeled off, revealing the expired label underneath, after the tow but before the appellant took the photograph. It is less probable that the label that had expired 12 days earlier was still posted on the street in the busy downtown area. In addition, the evidentiary credibility of the appellant's photograph is called into question because the

permit holder on the expired label, Candem Development, did not reserve this parking space during the dates indicated on the label.

Given these circumstances, this was a valid tow. Please note the relevant City Code sections below concerning this matter.

16.20.280 Official/Reserved Zones.

B. No vehicle may park in an official/reserved zone unless authorized as indicated by the sign or markings of the zone.

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 1, 2008
IS: cb/rs


Ian Simpson, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 19903

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Letter	Lewis, Daniel	Received
2	Denial letter	Hearings Office	Received
3	Completed tow hearing request form	Lewis, Daniel	Received
4	Tow desk report	Hearings Office	Received
5	Hearing notice	Hearings Office	Received
6	Tow hearing info. sheet	Hearings Office	Received
7	Tow hearing report	Parking Enforcement	Received
8	Parking violation w/photos	Parking Enforcement	Received
9	Letter	Lewis, Daniel	Received
10	Photo	Lewis, Daniel	Received