



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF HARVEY RICE

CASE NO. 1080206

DESCRIPTION OF VEHICLE: Ford Aerostar (OR 444BDM)

DATE OF HEARING: July 24, 2008

DECISION WITHOUT PERSONAL APPEARANCE

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer, on substantial evidence and based upon the record as a whole and receiving Exhibits 1 through 9 into the record without objection, finds as follows:

The towing officer reported that the appellant's vehicle was towed because it was a traffic hazard, and cited a violation of PCC 16.20.120.Q. The vehicle was parked more than 12 inches from the curb at a residential intersection. The officer provided photographs which support the facts presented.

The appellant stated in his letter requesting a hearing that his van was not parked 12 inches from the curb, it was not a hazard and not impeding traffic.

Portland City Code 16.20.120.Q makes it illegal to park a vehicle in a manner that creates a traffic hazard impeding the safe movement of vehicular or pedestrian traffic. However, this section of Title 16 does not authorize an officer to have a vehicle towed without prior notice, which the officer did not provide in this case. For example, PCC 16.30.220 Towing Without Prior Notice, does authorize towing a vehicle without prior notice under subsection A: The vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic; and subsection D: The vehicle poses an immediate danger to the public safety...

Given that the tow is invalid because of the lack of prior notice, the Hearings Officer finds that there is no need to go on to determine the facts of the case.

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

16.20.120 Prohibited Parking or Stopping of a Vehicle.

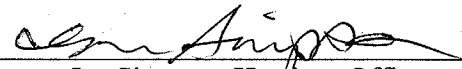
(Amended by Ordinance Nos. 165594, 166575, 170923, 173369, 176394, 176955 and 179141 effective March 23, 2005.) Except when specifically directed by authority of this Title or when necessary to avoid conflict with other traffic, it is unlawful to park or stop a vehicle:

Q. In a manner that creates a traffic hazard impeding the safe movement of vehicular or pedestrian traffic.

The owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

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

Dated: July 29, 2008
IS: cb


Ian Simpson, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 18818

Enclosure

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 2 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Rice, Harvey	Received
2	Receipt	Rice, Harvey	Received
3	Notice to Tow	Rice, Harvey	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	Rice, Harvey	Received