



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

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**HEARINGS OFFICER'S ORDER**

APPEAL OF ANNA KRAFT

CASE NO. 1080262

DESCRIPTION OF VEHICLE: Dodge Stratus (OR XDQ911)

DATE OF HEARING: August 29, 2008

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

The Hearings Officer, on substantial evidence and based upon the record as a whole, finds as follows:

Ms. Kraft was mailed a Notice of Hearing on August 25, 2008. The notice was not returned by the U.S. Mail Service and Ms. Kraft did not contact the Hearings Office prior to the hearing requesting that the hearing be rescheduled. Ms. Kraft did not appear at the scheduled hearing. The Hearings Officer makes this decision based upon the exhibits admitted into the evidentiary record (Exhibits 1 through and including 7).

In her written request for a hearing Ms. Kraft stated, in relevant part, that "I was parked in front of a Gary Purcell construction site that had no signs stating no parking. The morning when I went to pick up my car I talked with two of the construction workers and both stated that the construction crew failed to put of the mandatory no parking signs indicating a car would be towed if parked."

The police officer who ordered the tow stated that he/she "responded to the 500 blk of E. Burnside in regards to a parking violation. We contacted the construction crew who said they have a permit to block the curb lane of East Burnside to dig it up. It's only allowed on Saturday. When they arrived ! 0615 hrs. There were two cars parked there. This is also a 1 hr parking zone. The cars were tagged for the Parking violation and towed out of the permitted work zone."

Portland City Code 16.30.210 D. requires temporary No Parking signs to be placed at least 24 hours in advance of a tow. The only evidence in the record regarding the placement of the temporary No Parking signs is the statement by Ms. Kraft that she was told by the construction workers that they failed to put out the signs in a timely manner. Nothing in the police report refers to the placement of the temporary

No Parking signs. The Hearings Officer finds that there is not sufficient evidence to find the temporary No Parking signs were placed prior to 24 hours before the tow, and therefore a tow for violating temporary No Parking signs would not be valid.

The police officer suggested, but did not state clearly, that Ms. Kraft was parked in violation of a 1 hour parking sign. On the first page of the "Investigation Report" (Exhibit 7) in the section marked "one sentence summary of incident", the police officer wrote "1 hr. parking violation – towed for construction work." The Hearings Officer finds that the vehicle was not towed for violating the 1 hour limit but rather for violating the temporary No Parking sign necessitated by the construction activity in the area. As such, the Hearings Officer must find the tow invalid, because of the failure to provide proof that the temporary No Parking signs were placed more than 24 hours before the tow.

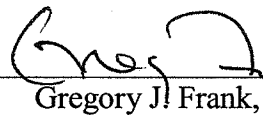
The owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle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

**In order for the appellant to receive reimbursement, a copy of the towing and storage bill must be furnished to the Hearings Officer by October 4, 2008.**

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

Dated: September 4, 2008

GJF: rs/cb



Gregory J. Frank, Hearings Officer

Bureau: Police  
Tow Number: 22264

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	Kraft, Anna	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	LEDS printout	Police Records	Received
7	Investigation Report	Police Records	Received