



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF SARAH JANE REED

CASE NO. 1080264

DESCRIPTION OF VEHICLE: Volkswagen Jetta (OR 471BQN)

DATE OF HEARING: September 2, 2008

APPEARANCES:

Ms. Sarah Jane Reed, appellant

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer, on substantial evidence and based upon the record as a whole and receiving Exhibits 1 through 11 into the record without objection, finds as follows:

The towing officer's report (Exhibit 8) stated: 1 hr: parking violation – towed for construction work. Prohibited parking. The officer's report also stated: See narrative. But no narrative was provided to the Hearings Officer.

The appellant stated (Exhibit 1), that she saw no parking restriction signs when she parked her vehicle. She provided a notarized statement from a Mr. Darren Jones, who was working at the construction site. Mr. Jones stated (Exhibit 9), that the signs had not been posted when the appellant parked her vehicle. He also stated that his partner spoke with the officer who ordered the tow and asked why the vehicle was being towed when the signs had not been posted properly. Mr. Jones stated that the officer told his partner that that the vehicles would not normally be towed, but if the owners fought the tow they would win.

The burden of proof is on the City to show that more probably that not the officer who ordered the tow followed the Code correctly, and the required notice was given to the vehicle owner. The Code requires that temporary No Parking signs be posted for 24 hours before a violating vehicle may be towed. In this case, the officer's report does not indicate that the signs were posted for the required 24 hours. In addition, the appellant stated that she did not see any signs, and the appellant's witness stated that the signs were not posted for 24 hours before the tow. The Hearings Officer finds that the weight of the evidence supports finding that more probably than not the signs were not posted for the required 24 period.

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

16.30.210 When a Vehicle May be Towed.

(Amended by Ordinance Nos. 172788 and 179141, effective March 23, 2005.) A vehicle may be towed and held at the expense of the owner or person entitled to possession thereof from:

A. Any public right-of-way, public park or other public place or property, when:

1. The vehicle is parked in violation of a temporary or permanent parking restriction;


D. Temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area.

E. Temporary parking restrictions may be enforced by tow if the space reservation device and/or signs are in place by 12:30 p.m. the prior day in any meter district.

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: September 5, 2008
IS: rs/cb


Ian Simpson, Hearings Officer

Bureau: Police
Tow Number: 22265

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	Reed, Sarah Jane	Received
2	Notarized letter from Darren Jones	Reed, Sarah Jane	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Tow Hearings Process Info. sheet	Hearings Office	Received
6	Towed vehicle record	Police Bureau	Received
7	Data printout (2 pgs)	Police Bureau	Received
8	Investigation report	Police Bureau	Received
9	Letter notarized from Darren Jones (duplicate of Exh. 2)	Reed, Sarah Jane	Received
10	Photos (5)	Reed, Sarah Jane	Received
11	Receipt	Reed, Sarah Jane	Received