



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF DENNIS M. FRITCH

CASE NO. 1080273

DESCRIPTION OF VEHICLE: Jeep Cherokee (OR ZJM178)

DATE OF HEARING: September 5, 2008

APPEARANCES:

Mr. Dennis M. Fritch, 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 9 into the record without objection, finds as follows:

The towing officer's report (Exhibit 8) stated that the officer performed a traffic stop for the Appellant's vehicle, which was being driven by Dennis A. Fritch, the Appellant's son. The officer found marijuana and cocaine in a backpack in the vehicle. The vehicle's passenger, Daniel Kappes, stated that the backpack and drugs were his and that he was going to sell the drugs. The officer had the vehicle towed because the vehicle was used to possess and/or deliver a controlled substance.

The appellant stated in the hearing that the vehicle was no longer in storage. The appellant stated in the hearing that since his son did not own the drugs and did not know they were in the vehicle, the vehicle should not have been towed. The city code authorizes an officer to tow a vehicle if the officer has probable cause to believe that the vehicle was being used to possess or deliver a controlled substance. In this case, although the appellant's son did not know that Mr. Kappes possessed and intended to sell illegal drugs, the officer had probable cause to believe that Mr. Kappes was using the vehicle for that purpose.

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

16.30.220 Towing Without Prior Notice.

(Amended by Ordinance Nos. 165980, 170912, 176352, and 176442, effective May 1, 2002.) Any authorized officer may, without prior notice, order a vehicle towed, when:

L. A police officer has probable cause to believe that the vehicle has been used or is possessed for the purpose of being used to commit or conceal the commission of one or more of these offenses:

2. Unlawful delivery of imitation controlled substance (ORS 475.991), Unlawful possession, delivery, or manufacture of controlled substance (OR 472.992), Unlawful distribution of controlled substance to minors (ORS 475.995), Unlawful manufacture or delivery of controlled substance within 1,000 feet of school (ORS 475.999), or any attempt, solicitation, or conspiracy of one of these offenses.

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: September 12, 2008
IS: cb/rs


Ian Simpson, Hearings Officer

Bureau: Police
Tow Number: 23200

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Fritch, Dennis M.	Received
2	Tow desk report	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Towed vehicle record	Police Bureau	Received
6	Custody report	Police Bureau	Received
7	Investigation report / non-connect	Police Bureau	Received
8	Investigation report	Police Bureau	Received
9	Notice of Impoundment	Police Bureau	Received