



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF MICHAEL J. HASTRICH

CASE NO. 1080278

DESCRIPTION OF VEHICLE: Honda Accord (OR RRN410)

DATE OF HEARING: September 9, 2008

APPEARANCES:

Mr. Michael J. Hastrich, 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 14 into the record without objection, finds as follows:

The towing officer's report (Exhibit 5) stated that he stopped the appellant for a traffic infraction. The appellant smelled slightly of alcohol, had a flushed face, slight slur, bloodshot eyes, lethargic movements and his pupils were dilated. The officer found a Burgerville cup in the center console and inside it was an open 12-ounce can of beer that was $\frac{3}{4}$ consumed. The appellant told the officer that he had consumed one beer and taken a Vicadin and some Oxycodine.

The appellant stated during the hearing that he was not intoxicated when the officer stopped him. The City Code authorizes an officer to tow a vehicle if the officer has probable cause to believe that the driver was driving under the influence of intoxicants. Given the officer's description of the appellant during the stop, the Hearings Officer finds that the officer had such probable cause.

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:


K. A police officer has probable cause to believe that the vehicle's operator has committed any of the following offenses:

4. Driving while under the influence of intoxicants (ORS 813.010);

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: rs/cb


Ian Simpson, Hearings Officer

Bureau: Police
Tow Number: 23895

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Hastrich, Michael J.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Custody Report	Police Records	Received
6	Implied Consent form	Police Records	Received
7	Field Sobriety Test Report	Police Records	Received
8	DUII Interview Report	Police Records	Received
9	Intoxilyzer 8000 Operator's Checklist	Police Records	Received
10	Breath Test Reports	Police Records	Received
11	Oregon Driver's License	Police Records	Received
12	Notice of Impoundment Towing	Police Records	Received
13	Citations	Police Records	Received
14	Towed Vehicle Record	Police Records	Received