



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

1900 S.W. 4th Avenue, Room 3100
Portland, Oregon 97201
Telephone: (503) 823-7307
FAX: (503) 823-4347
TDD (503) 823-6868

HEARINGS OFFICER'S ORDER

APPEAL OF TREVOR A. MAFFEI

CASE NO. 1080283

DESCRIPTION OF VEHICLE: Toyota 4RN (OR 708CJD)

DATE OF HEARING: September 23, 2008

APPEARANCES:

Trevor A. Maffei, appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

The Hearings Officer, on substantial evidence and based upon the record as a whole, finds as follows: Mr. Maffei appeared and testified on his own behalf. Mr. Maffei submitted a photograph of the location of the tow (Exhibit 7) which was admitted into the evidentiary record. The City provided a "Tow Hearing Report" (Exhibit 5). The Hearings Officer makes this decision based upon the testimony of Mr. Maffei and the exhibits admitted into the evidentiary record (Exhibits 1 through and including 7).

Mr. Maffei's argued that the sign temporarily restricting parking, at the location his vehicle was towed, was not clear and conspicuous and therefore, did not give him adequate notice and warning that the particular spot where he parked was prohibited. Mr. Maffei did not contest the adequacy of time (24 hours) that the sign was placed.

The "Tow Hearing Report" (Exhibit 5) stated that, "24-hour notice is required. Barricades were verified @ 9:25 a.m. on 9/3/08. Notice was sufficient and tow was valid." The "Tow Hearing Report" indicated that the citation ordering the tow was issued at 9:39 a.m. on 9/4/08.

Mr. Maffei testified that he parked his vehicle on Tuesday evening at a location close to his residence; a common spot for him to park. Mr. Maffei stated that at the time he parked his vehicle he did not see any temporary No Parking signs restricting the space where he parked. Mr. Maffei stated that the next day, in the middle of the afternoon, he went to a store across the street from the location where he parked his vehicle and on the way back home he checked his vehicle and again noticed no temporary No Parking signs. On Thursday evening, after discovering his vehicle was towed, he took a picture of the location (Exhibit 7). Mr. Maffei indicated that his vehicle, prior to being towed, was parked a very short distance past the portable toilet (as seen in the photograph). Mr. Maffei testified that he did, at the time of the

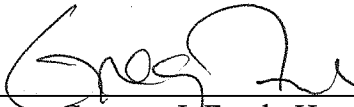
photograph (Thursday evening 09/04/08) discover a post with a "hood" over the top restricting parking, all days and all times, for a specific period of time. Mr. Maffei stated that NW Glisan, in the location where his vehicle had been parked, is a one-way street and the temporary No Parking sign is obscured to a person approaching this particular parking space. Mr. Maffei stated that he would not have seen the sign, tucked almost behind the portable toilet, unless he made an extraordinary search.

The City has the burden to demonstrate that the signage was (1) placed in a timely manner, and (2) the sign is clearly/conspicuously posted. Mr. Maffei does not contest the timeliness of the posting. However, he does argue that the sign was not conspicuous to a typical or reasonable driver wishing to park at that location. The Hearings Officer agrees. The Hearings Officer, in reviewing the photograph, could not see the post which Mr. Maffei stated had a temporary No Parking hood upon it. The City provided no evidence to suggest the sign was conspicuous. Therefore, the Hearings Officer finds that the temporary No Parking restriction sign was not conspicuous and therefore, Mr. Maffei was not given adequate notice of the parking restriction. The Hearings Officer finds the tow is not valid.

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 23, 2008
GJF: cb



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 24328

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 w/copy of tow receipt in body of letter	Maffei, Trevor A.	Received
2	Tow desk report	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Tow hearing report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Copy of photo (8 1/2 x 11)	Maffei, Trevor A.	Received