



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

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**HEARINGS OFFICER'S ORDER**

APPEAL OF KEVIN WHITE

CASE NO. 1080296

DESCRIPTION OF VEHICLE: Toyota Camry (OR 313BBQ)

DATE OF HEARING: October 1, 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:

A hearing date was scheduled for October 1, 2008 at 9:00 a.m. to accommodate Ms. Pam Brooks who informed the hearings clerk that she was arriving in Portland mid-afternoon on September 30, 2008. The Hearings Officer commenced the hearing on October 1, 2008 at approximately 9:04 a.m. No person appeared at the hearing on behalf of appellant. The Hearings Officer makes this decision based upon the exhibits admitted into the evidentiary record (Exhibits 1 through and including 8).

The Hearings Officer, on the record at the hearing, reviewed various exhibits. In particular, the Hearings Officer reviewed the letter from Pam Brooks on behalf of the appellant. Ms. Brooks explained the towed vehicle was in a car accident and the appellant was severely injured. Ms. Brooks indicated that she went to the appellant's home, after the accident, and noticed a "tag from abandoned auto department." (Exhibit 1). Ms. Brooks stated that she contacted a representative from the abandoned auto section and was told the vehicle was not in violation. Ms. Brooks stated that after the vehicle was towed she contacted the same person at the abandoned auto section who told her that "she didn't realize it was the same car."

Exhibit 5 is a Tow Hearing Report for the tow of appellant's vehicle. This form indicates that the vehicle was warned (notice of tow sticker) on September 16, 2008 (@ 1:40 p.m.) and the vehicle was ordered towed on September 19, 2008 (@ 12:28 p.m.). Exhibit 6 is a narrative provided by the inspector who ordered the appellant's vehicle towed. The inspector stated that a complaint was received regarding the appellant's vehicle and that the inspector observed the vehicle on August 29, 2008. The inspector noted that the vehicle was covered by a tarp and had current tags (registration). The inspector closed the

case. Later that day the inspector indicated that a phone call from Ms. Brooks was received and that the inspector returned the call (left message) that the case was closed. The inspector stated that a second complaint about the appellant's vehicle being "wrecked" was received on September 16, 2008. The inspector stated that upon a subsequent inspection it was discovered that the tarp was off of the front of the vehicle and that the vehicle appeared to be seriously damaged. The inspector stated that a green warning tag was placed on the vehicle on September 16, 2008 at 12:28 p.m. The inspector stated that a final inspection was made on September 19, 2008 and the tarp was entirely off the vehicle, and the serious damage to the vehicle was readily apparent. The appellant's vehicle was ordered towed and actually towed on September 19, 2008. According to the tow desk report (Exhibit 2) the appellant's vehicle was towed at 7:46 p.m. on September 19, 2008.

Exhibit 7 contains a copy of a parking violation and four color pictures of the appellant's vehicle.

The City may order the tow of a vehicle from the public right-of-way, and the vehicle held at the expense of the owner, if the vehicle is abandoned per the definition in Portland City Code section 16.90.005. (See 16.30.210 A.10) Section 16.30.225 requires that a vehicle may be towed 72 hours after notice of Intent to Tow has been affixed to or placed on the abandoned vehicle. Section 16.90.005 defines "abandoned vehicle" as one which remains in violation for more than 24 hours and the vehicle appears to be inoperative and/or the vehicle appears to be wrecked.

The Hearings Officer finds that the vehicle was wrecked. This finding is based upon the admission on behalf of appellant in Exhibit 1, the statements of the abandoned auto section inspector (Exhibit 6) and the pictures (Exhibit 7). The Hearings Officer finds that the appellant's vehicle remained in a wrecked condition for more than 24 hours based upon the statements of the abandoned auto section inspector (Exhibit 6). The Hearings Officer finds that the notice of Intent to Tow was placed on the appellant's vehicle in excess of 72 hours prior the appellant's vehicle being towed. (Exhibits 2, 5, 6 and 8).

The Hearings Officer finds that the inspector who ordered the tow of appellant's vehicle followed the relevant laws/rules. Therefore, the Hearings Officer finds the tow valid.

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: October 1, 2008

GJF: cb

Enclosure

  
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Gregory J. Frank, Hearings Officer

Bureau: Abandoned Autos  
Tow Number: 25629

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Hearing request letter (submitted by sister w/power of attorney mentioned	White, Kevin	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	Abandoned Autos	Received
6	Inspector detail	Abandoned Autos	Received
7	Parking Violation w/photos	Abandoned Autos	Received
8	Case detail	Abandoned Autos	Received