



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF CHRISTOPHER FYAN

CASE NO. 1080325

DESCRIPTION OF VEHICLE: Jeep Cherokee (OR 754DPF)

DATE OF HEARING: November 13, 2008

APPEARANCES:

Mr. Christopher Fyan, Appellant

Ms. Deborah Barkley, for the City

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Christopher Fyan, Appellant, appeared and testified on his own behalf. Ms. Claudia Roesler appeared and testified on behalf of Appellant. Ms. Deborah Barkley, City of Portland Parking Patrol Officer, appeared and testified on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Mr. Fyan, Ms. Roesler, Ms. Barkley and the exhibits admitted into the evidentiary record (exhibits 1 through and including 7).

Appellant testified that he parked his vehicle in the evening hours and went to dinner. Appellant emphasized that when he pulled his vehicle into the parking space he was concerned that it would fit. He stated that he got out of the vehicle and checked the location of his vehicle in relation to the corner ramp. Appellant stated he got back into his vehicle and pulled forward a short distance and he believed he was clear of the ramp. Appellant stated that he doesn't drive his vehicle every day and did not return to see his vehicle had been ticketed.

Ms. Roesler, Appellant's wife, confirmed Appellant's testimony and stated that she believed the vehicle was parked legally.

Ms. Barkley, the City Parking Patrol Officer who ordered Appellant's vehicle towed, testified that she cited Appellant's vehicle on the morning of October 20, 2008 for the rear portion of Appellant's vehicle encroaching into the handicap ramp at the corner. Ms. Barkley stated that she ticketed the vehicle again on October 21, 2008, in the morning, and indicated Appellant's vehicle had not moved. Ms. Barkley, on October 22, 2008, received a complaint from a person in the neighborhood that Appellant's vehicle was

parked in the handicap ramp area. Ms. Barkley stated she ticketed Appellant's vehicle again on October 22, 2008 and ordered the vehicle towed for blocking the handicap ramp.

Mr. Fyan questioned Ms. Barkley about pictures taken by Ms. Barkley. Ms. Barkley responded by stating that she took all pictures from the street side of Appellant's vehicle and that the pictures taken on October 22, 2008 clearly showed Appellant's vehicle parked partially in front of the handicap ramp.

The Hearings Officer finds all testimony offered to be credible. However, the Hearings Officer finds the testimony of Ms. Barkley to be the most persuasive. Appellant and Ms. Roesler testified that they "thought" they were parked out of the ramp area. The testimony of Ms. Barkley, supported by the pictures (in particular the pictures on exhibit 6), indicates that Appellant's vehicle is parked clearly in front of the corner area of sidewalk which is constructed in such a manner to provide ease of access from the sidewalk to the roadway (see Portland City Code 16.90.140 – Definition of Handicap Access Ramp). The Hearings Officer's interpretation of Exhibit 6 (picture under parking violation) is that looking down towards the sidewalk, the sidewalk is lowered to street level; the Hearings Officer could not see the sidewalk level rise to normal curb height.

The Hearings Officer finds, based upon the evidence in the record, that Appellant's vehicle was parked partially in a handicap access ramp in violation of Portland City Code 16.20.130 D. The Hearings Officer finds that the parking patrol officer who ordered the tow followed all relevant laws/rules in ordering Appellant's vehicle towed. The Hearings Officer finds the tow is valid.

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: November 14, 2008

GJF: rs



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement

Tow Number: 28366

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Fyan, Christopher	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Tow hearing report	Parking Enforcement	Received
6	Parking violation #1 w/photos	Parking Enforcement	Received
7	Parking violation #2 w/photos	Parking Enforcement	Received