



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF BRADLEY J. NORMAN

CASE NO. 1080333

DESCRIPTION OF VEHICLE: Toyota Tacoma SR5 (OR XEX687)

DATE OF HEARING: November 20, 2008

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Bradley J. Norman submitted a request for a tow hearing on November 18, 2008 (Exhibit 1). Based upon Mr. Norman's request a hearing was scheduled for 4:00 PM on November 20, 2008. The Hearings Office is required (Portland City Code 16.30.410 D) to hold a hearing for a vehicle that is not yet released within 72 hours of the receipt of the request. The Hearings Office, having no information in the record to suggest that Mr. Norman obtained release of the vehicle, scheduled the hearing within the required 72 hours.

Portland Policy Document 2-3 states that "Written notification of the time and place of hearing need not be provided. The time and place of hearing will be set at the time the Request for Hearing is filed, and it is the responsibility of the person or persons requesting the hearing to make inquiry, in person or by telephone, to determine the time and place set for hearing." A Hearings Office clerk contacted Mr. Norman by telephone and informed him of the date, time and location of the scheduled hearing.

The City did not provide any written reports, following request by the Hearings Office, into the evidentiary record prior to the close of the hearing on November 20, 2008. No person appeared on behalf of the City.

The Hearings Officer makes this decision based upon the evidence in the evidentiary record (Exhibits 1 through and including 6).

The Hearings Officer must find a tow valid if the Hearings Officer finds that the officer ordering the tow followed all relevant rules/laws. There is a notation on the Tow Desk printout that Mr. Norman's vehicle was towed for "PRIS PROP/DUIL." (Exhibit 2). The Towed Vehicle Record also stated the

violation to be "PRIS PROP/DUII." (Exhibit 5). The City submitted no written reports to describe the events leading to the tow of Mr. Norman's vehicle. The City submitted no written reports describing the evidentiary basis leading to a finding, by the police officer, that probable cause existed that Mr. Norman was driving under the influence of intoxicants (grounds for towing a vehicle without prior notice – 16.30.220 K.4).

Mr. Norman, in his request for a hearing, stated that he was not driving his vehicle under the influence of intoxicants. (Exhibit 1)

The Hearings Officer finds that the City failed to carry its burden of proof in this case. The Hearings Officer finds insufficient evidence in the record to support a tow of Mr. Norman's vehicle for driving his vehicle under the influence of alcohol, or being towed as "prisoner's property." The Hearings Officer finds the tow of Mr. Norman's vehicle not valid.

The owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges through 4:30 PM on November 21, 2008 (copy of executed Notification of Invalid Tow Form enclosed).

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: November 21, 2008
GJF: rs/cb



Gregory J. Frank, Hearings Officer

Bureau: Police
Tow Number: 30814

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Norman, Bradley J.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Info. sheet	Hearings Office	Received
5	1 page report	Police Bureau	Received
6	Notification of Invalid Tow – Hearings Office copy	Hearings Office	Received