



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF JOSEPH E. RODDY

CASE NO. 1080386

DESCRIPTION OF VEHICLE: Subaru SVX (OR TFP870)

DATE OF HEARING: December 30, 2008

APPEARANCES:

Mr. Joseph E. Roddy, 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 10 into the record without objection, finds as follows:

The towing officer's report (Exhibit 5) indicated that the appellant's vehicle was towed because the driver was driving with a suspended license and was uninsured.

The appellant stated that the officer did not have probable cause to tow his vehicle. The appellant stated that his license being listed as suspended was a mistake by the City of Portland. He provided a receipt (Exhibit 7) showing that he paid Multnomah Circuit Court \$34.00. He stated that this payment corrected the error made by the City and cancelled his license's suspension.

The City Code authorizes an officer to tow a vehicle if the officer has probable cause to believe the driver is driving with a suspended license. The Hearings Officer finds that in this case the officer did have probable cause to believe the appellant had a suspended license, based on the officer's investigation during the traffic stop. It is irrelevant to the validity of the tow whether after the tow the appellant shows that the suspension was a mistake.

The appellant stated that his vehicle was insured, but he did not have the insurance card in his vehicle when the officer stopped him. The City Code authorizes an officer to tow a vehicle if the officer has probable cause to believe the vehicle is uninsured. In this case, the driver not presenting a valid insurance card to the officer gave the officer 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:

1. Driving uninsured (ORS 806.010);
2. Driving while suspended or revoked (ORS 811.175 or ORS 811.182);
3. Operating a vehicle without driving privileges or in violation of license restrictions (ORS 807.010) and the operator's license has been expired for 60 days or more, or that the operator has not had a valid driver's license within the previous 60 days.


806.011 Insurance card required. An unexpired card issued as provided in ORS 742.447, or other current proof of compliance with financial or future responsibility requirements approved by rule by the Department of Transportation, shall be carried in each motor vehicle that is operating in this state and that is not exempt from compliance with financial or future responsibility requirements. Failure of the driver of a motor vehicle to show a valid card or other proof of compliance when asked to do so by a police officer is reasonable grounds for the officer to believe that the person is operating the vehicle in violation of ORS 806.010

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: December 31, 2008

IS: rs


Ian Simpson, Hearings Officer

Bureau: Police
Tow Number: 22419

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request form	Roddy, Joseph E.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Traffic Violation tow report	Police Bureau	Received
6	Notice of Impoundment	Police Bureau	Received
7	Multnomah County Circuit Court Receipt	Roddy, Joseph E.	Received
8	Oregon Vehicle Certificate of Title	Roddy, Joseph E.	Received
9	Oregon Insurance Identification Card	Roddy, Joseph E.	Received
10	Receipts	Roddy, Joseph E.	Received