



CITY OF
PORTLAND, OREGON

HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF EMILIA M. JAEGER

CASE NO. 1090151

DESCRIPTION OF VEHICLE: Ford Escort (OR WVX905)

DATE OF HEARING: July 2, 2009

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

A Notice of Hearing was sent to Ms. Jaeger on June 22, 2009. The Notice of Hearing sets the date, time and place of the hearing. Further, the Notice of Hearing states that "hearings begin promptly" and "those arriving late may lose the opportunity to present their case or to hear other parties' testimony. You must be prepared to present your case at the hearing, including any witnesses or evidence you wish the Hearings Officer to consider." The Notice of Hearing also contains instructions how and when requests for postponements/continuances must be filed. Ms. Jaeger did not appear at the hearing and she did not contact the Hearings Office prior to the commencement of the hearing. The Hearings Officer makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 7).

Exhibit 1, Ms. Jaeger's request for a hearing, states (in relevant part) the following:

"I am not a trouble-maker for the city of Portland. In fourteen 14 years of driving, I've only had one (1) ticket and *never* had my car towed. On Monday, my car was towed with no warning from in front of the house where I am house-sitting because it was about one foot in front of the neighbor's driveway. Why? Because parking is so tight on this street, NE Halsey, that I did my best to squeeze in but had slightly covered part of their driveway (they could still get out). I meant to move my car a few inches back after unloading my luggage."

The Parking Enforcement Officer who ordered Ms. Jaeger's vehicle towed submitted a "Tow Hearing Report" (Exhibit 50 and also two pages of pictures (Exhibits 6 and 7). The Parking Enforcement Officer stated, in the Tow Hearing Report, the following:

"Called on Service Complaint #717 with a Request for Towing Vehicle Blocking Driveway Area. Owner could not get out. See photos vehicle well into driveway area."

The Hearings Officer takes notice of the photos. One photo shows Ms. Jaeger's vehicle well into the driveway; the Hearings Officer estimates at least three feet.

The Hearings Officer shall find a tow valid if the Hearings Officer finds that the Parking Enforcement Officer followed the relevant laws/rules. In this case the relevant laws/rules can be found in Portland City Code (PCC) Title 16; in particular PCC 16.20.130 V., PCC 16.20.220 B. and PCC 16.90.105.

Title 16, PCC 16.20.130 V makes it unlawful to park or stop a vehicle in front of any portion of a driveway ingress/egress to the public right-of-way. PCC 16.30.220 permits a Parking Patrol Officer to order a vehicle towed, without prior notice, if the vehicle is parked in a location that is interfering or reasonably likely to interfere with the intended space. PCC 16.90.105 defines driveway for the purposes of Title 16, A driveway "extends from one curb return to the other" and "if winged, includes the wings."

The Hearings Officer finds that the location where Ms. Jaeger's vehicle was parked is within a driveway as defined by PCC 16.90.105. The photos on Exhibit 7 clearly show Ms. Jaeger's vehicle parked in the area between the "wings." The Hearings Officer finds that parking in a driveway interferes with the use of the intended space; the intended space is to provide ingress/egress to the residence shown in the pictures on Exhibit 7. In addition, Ms. Jaeger's statement in Exhibit 1 is an admission that her vehicle was parked partially in the driveway. The Hearings Officer finds that the location Ms. Jaeger's vehicle was parked is a driveway and therefore, her vehicle was parked in violation of PCC 16.20.130.

The Hearings Officer finds that the Parking Patrol Officer who ordered Ms. Jaeger's vehicle towed on June 15, 2009 followed the relevant laws/rules. The Hearings Officer finds that the tow of Ms. Jaeger's vehicle on June 15, 2009 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: July 6, 2009
GJF:rs/cb



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 12221

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Jaeger, Emilia M.	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 and photos	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received