



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY AUDITOR
Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF BARRY W. ALLEN

CASE NO. 1090239

DESCRIPTION OF VEHICLE: Volkswagen Jetta (OR 649AQN)

DATE OF HEARING: November 5, 2009

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

A Notice of Hearing was sent, on October 29, 2009, to Mr. Allen at the address provided by Mr. Allen. The Notice of Hearing was not returned by the United States Postal Service. Mr. Allen did not contact the Hearings Office prior to his hearing to request a set-over or continuance. Mr. Allen did not appear at the hearing. The Hearings Officer makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 6).

Exhibit 1, the written request for a tow hearing submitted by Mr. Allen, includes the following narrative:

"I am currently working NW 22nd & Everett to Flanders. I am employed by Howard Jacobs Masonry. Howard Jacobs has 60 feet of parking space reserved for employees. I was parked within our reserved 60' feet and was towed. Thank you for your time."

Exhibit 5, a written report submitted by the Parking Enforcement Officer who ordered Mr. Allen's vehicle towed, stated (in part) the following:

"After walking around this car several times I found no permit to allow parking in this zone. I towed the vehicle."

Exhibit 6 was also submitted by the Parking Enforcement Officer who ordered Mr. Allen's vehicle towed. Exhibit 6 contains a copy of the Parking Violation (citation) and two pictures. One picture is of a rear license plate of a VW (matching the license number given by Mr. Allen in Exhibit 1). The second picture is of a "plastic hood" indicating "No Parking This Block" and references dates and times.

The Hearings Officer finds the narrative submitted by the Parking Enforcement Officer is credible. The Hearings Officer finds that the Parking Enforcement Officer did walk around Mr. Allen's vehicle and was unable to observe a City issued identification card on the dashboard. The Hearings Officer finds that Mr. Allen's narrative did not address the issue of the presence of an identification card in his

vehicle. Therefore, the Hearings Officer finds that a valid identification card was not clearly observable in Mr. Allen's vehicle prior to his vehicle being ordered towed on October 23, 2009.

The Hearings Officer must find a tow of a vehicle valid if the Hearings Officer finds that the person who ordered the tow followed the relevant laws/rules. In this case, the Hearings Officer finds that the Parking Enforcement Officer did follow the rules; walked around the vehicle and observed no identification card permitting Mr. Allen to park the vehicle in the restricted zone. The Hearings Officer finds that the tow of Mr. Allen's vehicle on October 23, 2009 is valid. Mr. Allen's appeal is denied.

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 6, 2009

GJF:rs



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 767674

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Allen, Barry W.	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 Citation and photos	Parking Enforcement	Received