



CITY OF

PORTLAND, OREGON

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HEARINGS OFFICER'S ORDER

APPEAL OF LISA J. NETTLES

CASE NO. 1090257

DESCRIPTION OF VEHICLE: Chrysler Town & Country (WA 460PXX)

DECISION WITHOUT APPEARANCE

HEARINGS OFFICER: Mr. Gregory J. Frank

Ms. Nettles requested that the Hearings Officer make a decision, in this case, based upon the documents in the evidentiary record (See Exhibit 5). The Hearings Officer, therefore, makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 7).

Exhibit 1, Ms. Nettles' request for a tow appeal hearing, states that "this tow was improper because I was not blocking any drive way. I also do not think its right to tow a car without notice." Ms. Nettles, in Exhibit 5, stated that "my car was legally parked on a public street in a residential area." Ms. Nettles, in Exhibit 5 also complained about the amount of tow charges being too high.

Exhibit 6 is a "Tow Hearing Report" prepared by the Parking Enforcement Officer who ordered Ms. Nettles' vehicle towed on November 14, 2009. Exhibit 6, in the narrative section, states that "this tow was on an SR*. As can be seen in photo #3 which was taken by me while standing in the middle of the DW facing street the veh is over 1/2 into DW. It is narrow and not usable w/ the veh there."

*SR = service request

Exhibit 7 includes three photos referenced by the Parking Enforcement Officer in Exhibit 6. Photo #1 on Exhibit 7 shows the license plate of Ms. Nettles' vehicle. Photo #3 shows a vehicle parked in an area where the pavement is at the same level as the access area in the forefront of the picture.

The Hearings Officer shall find a tow valid if the Hearings Officer finds that the person who ordered the vehicle towed followed the relevant laws/rules. In this case, the relevant laws/rules are found in Portland City Code ("PCC") Title 16. PCC 16.90.105 defines "driveway" for the balance of Title 16. A driveway, per PCC 16.90.105 is an access extending from a public right-of-way onto private property for the purpose of gaining vehicular access to such areas. A driveway is further defined as extending from one curb return to another and if winged, includes the wings.

The Hearings Officer finds that Photo #3 (Exhibit 7), although somewhat dark, does show a vehicle parked partially into what appears to the Hearings Officer to be a driveway. The Hearings Officer notes from photo #3 that the area where the vehicle is parked the street pavement is generally level with the paved area in the forefront of the picture; appears to the Hearings Officer to be the driveway apron. The Hearings Officer also notes on photo #3 the location of the center of the driveway and apron. The Hearings Officer finds, based primarily upon the narrative of the Parking Enforcement Officer which is corroborated by photo #3, that Ms. Nettles' vehicle was parked in a driveway on November 14, 2009.

PCC 16.30.220 B permits a vehicle to be ordered towed, at the expense of the owner and without prior notice, if the vehicle is illegally parked at a place that the vehicle is interfering or reasonably likely to interfere with the intended use of such a space. The Hearings Officer finds that the Parking Enforcement Officer responded to a service call from a property owner who desired to use the driveway where Ms. Nettles' vehicle was parked. The Hearings Officer finds that Ms. Nettles' vehicle was illegally parked, on November 14, 2009, in a location that interfered with the use of the driveway. The Hearings Officer finds, per PCC 16.30.220 B, no prior notice is required to be given to Ms. Nettles before her vehicle was towed.

The Hearings Officer notes that he has no right to partially reduce the tow fees in a tow appeal hearing. The Hearings Officer has been given the right only to find a tow "valid" or "invalid." Further, the Hearings Officer does not set the tow and/or storage fees.

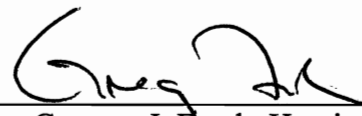
The Hearings Officer finds that the Parking Enforcement Officer followed the relevant laws/rules and therefore, the tow of Ms. Nettles' vehicle is valid and her appeal is denied.

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 27, 2009

GJF:cb



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement

Tow Number: 22662

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Letter	Nettles, Lisa J.	Received
2	Tow desk printout	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Letter	Nettles, Lisa J.	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation and photos	Parking Enforcement	Received