



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

LaVonne Griffin-Valade, City Auditor
1900 SW 4th Avenue, Room 3100
Portland, Oregon 97201
Telephone: (503) 823-7307
Fax: (503) 823-4347
TDD: (503) 823-6868
www.portlandonline.com/auditor/hearings

HEARINGS OFFICER'S ORDER

APPEAL OF JAMES LUNG

CASE NO. 1090282

DESCRIPTION OF VEHICLE: Acura Legend (OR SL69820)

DATE OF HEARING: December 30, 2009

APPEARANCES:

James Lung, appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. James Lung appeared at the hearing and testified on his own behalf. No person appeared at the hearing on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Mr. Lung and the documents admitted into the evidentiary record (Exhibits 1 through and including 8).

Mr. Lung submitted a letter describing the circumstances leading up to his vehicle being towed on December 11, 2009 (Exhibit 1). Mr. Lung submitted a letter written by a witness (Ms. Szymanski) describing the events of December 9, 2009 (Exhibit 7). The Hearings Officer finds the statement of events leading up to Mr. Lung's vehicle being towed, as set forth in Exhibits 1 and 7, to be credible. Mr. Lung's testimony at the hearing was consistent with Exhibits 1 and 7. The Hearings Officer, based upon the testimony of Mr. Lung and Exhibits 1 and 7, finds that on the morning of Wednesday, December 9, 2009, Ms. Szymanski drove Mr. Lung to the airport and returned to the vicinity of NW Hoyt Street (east of NW 21st) at approximately 5:45 a.m. PST. The Hearings Officer also finds based upon Exhibit 7, that Ms. Szymanski did not return to the location (NW Hoyt/east of NW 21st) until Friday evening (December 11, 2009) when she discovered that Mr. Lung's vehicle was gone.

The Parking Enforcement Officer who ordered Mr. Lung's vehicle towed on December 11, 2009 submitted a written report (Exhibit 5). Exhibit 5 states that the temporary no parking signs, along the block face where Ms. Szymanski parked Mr. Lung's vehicle at 5:45 a.m. on December 9, 2009, were placed at 3:21 p.m. on December 9, 2009; after Mr. Lung's vehicle had been parked. The Parking Enforcement Officer stated that Mr. Lung's vehicle was towed at 8:18 a.m. on December 11, 2009. The Hearings Officer finds the statements made by the Parking Enforcement Officer (Exhibits 5 and 6) are credible. The Hearings Officer finds the temporary no parking signs were placed on the block face where Mr. Lung's vehicle was parked on December 9, 2009 at 3:21 p.m. and the vehicle was towed at 8:18 a.m. on December 11, 2009.

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules are found in the Portland City Code ("PCC") Title 16. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.30.210 A.1, PCC 16.30.210 D, and PCC 16.30.220 B. PCC 16.30.210 A.1 authorizes a Parking Enforcement Officer to order a vehicle towed and stored, at the owner's expense, if the vehicle is parked in any public right-of-way and the vehicle is parked in violation of any temporary or permanent parking restriction. PCC 16.30.210 D states that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.220 B permits a Parking Enforcement Officer to order a vehicle towed, without prior notice if the vehicle is illegally parked in a posted restricted space/zone.

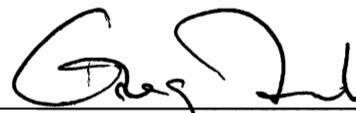
The Hearings Officer finds that the Parking Patrol Officer did follow the relevant laws/rules in ordering Mr. Lung's vehicle towed on December 11, 2009. The Hearings Officer finds that the tow of Mr. Lung's vehicle on December 11, 2009 is valid.

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: December 31, 2009

GJF: cb



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 24623

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Letter	Lung, James	Received
2	Tow desk printout	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Witness Statement	Lung, James	Received
8	Copy of travel itinerary from Internet	Lung, James	Received