



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

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HEARINGS OFFICER'S ORDER

APPEAL OF PETER COMISKEY

CASE NO. 1100015

DESCRIPTION OF VEHICLE: Boat (OR OR009AAV)

DATE OF HEARING: January 19, 2010

APPEARANCES:

Peter Comiskey, appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Comiskey appeared at the hearing and testified on his own behalf. The Hearings Officer makes this decision based upon the testimony of Mr. Comiskey and the documents admitted into the evidentiary record (Exhibits 1 through and including 8).

Mr. Comiskey stated that he noted a citation/violation on his boat/trailer on January 12, 2010. Mr. Comiskey indicated that the citation/violation indicated that it was placed on January 12, 2010 at approximately 2:00 p.m. Mr. Comiskey stated that the boat/trailer was towed the next day (January 13, 2010). Mr. Comiskey stated that he had, prior to the tow of the boat/trailer, moved it around the corner. Mr. Comiskey stated that he is uncertain that the boat needed to be licensed. (See also Mr. Comiskey's written request for a tow appeal hearing, Exhibit 1).

The Abandoned Auto Inspector who ordered Mr. Comiskey's boat/trailer towed submitted a written report (Exhibit 6, Tow Hearing Report). The narrative section of Exhibit 6 states the following:

"The BOAT AND TRAILER was found where reported at 5100 SE Franklin on Wednesday the 23rd of December at 12:55 p.m. This boat and trl. Had 07 tags, and was warned for being prohibited trailer. I returned on Dec. 30th at 12:30 to find the boat and trailer moved around the corner to 3200 se 51st and was still in violation. The boat and trailer was monitored at that site. I returned on 1-12-2010 to find it still there, and cited at 1:55 pm for prohibited trailer."

The Tow Hearing Report (Exhibit 6) indicated that a Tow Warning Sticker was placed on the vehicle on December 23, 2009 (@ 12:55 p.m.). The reason, as stated in the Tow Hearing Report, for placing the Tow Warning Sticker was the boat/trailer was an abandoned vehicle because it had no current registration plate, it appeared inoperative or disabled and that the boat/trailer were a "prohibited truck, trailer, bus, RV (16.20.120 H,I).

The Hearings Officer must find a tow is valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case, the relevant laws/rules can be found in the Portland City Code ("PCC") Title 16. PCC 16.90.005 defines, for the purposes of towing a vehicle in Portland, the term "abandoned." A vehicle is deemed to be abandoned if the vehicle remains in violation for more than 24 hours and if the vehicle does not have a lawfully affixed, unexpired registration plate, or fails to display current registration. An "abandoned" vehicle may be towed and stored at the owner's expense if the vehicle is parked in the public right-of-way. (PCC 16.30.210 A.10) A vehicle may be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle. In addition, if the Hearings Officer finds that the boat/trailer were in violation of PCC 16.20.120 H and a 72-hour notice was given, the Hearings Officer must find the tow was valid.

The Hearings Officer finds that a Tow Warning Sticker was placed on the boat/trailer on December 23, 2009. The Hearings Officer finds the boat/trailer was towed on January 13, 2010. The Hearings Officer finds that the boat/trailer registration had expired. The Hearings Officer finds that the boat/trailer were parked, on the public right-of-way for an excess of 8 hours in a residential area and therefore, in violation of PCC 16.20.120 H. The Hearings Officer finds no evidence in the record to suggest the boat/trailer were inoperative or disabled. The Hearings Officer finds, because the boat/trailer was not currently licensed, the boat/trailer met the definition of an abandoned vehicle (PCC 16.90.005). The Hearings Officer finds that a 72-hour notice was given, by placement of the Tow Warning Sticker on December 23, 2009, prior to the tow for both an abandoned vehicle (PCC 16.20.120 P, and PCC 16.30.210 A.10) and boat/trailer parked in excess of 8 hours (PCC 16.20.120 H).

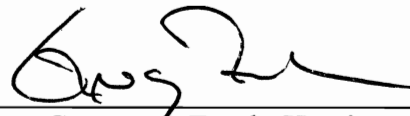
The Hearings Officer finds that the Abandoned Auto Inspector who ordered Mr. Comisky's boat/trailer towed (actual tow on January 13, 2010) followed the relevant rules. The Hearings Officer finds the tow of Mr. Comisky's boat/trailer is valid.

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: January 21, 2010

GJF:rs/cb



Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 746

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Comiskey, Peter	Received
2	Tow Desk printout - boat	Hearings Office	Received
3	Tow Desk printout - trailer	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Tow Hearings Process Info. sheet	Hearings Office	Received
6	Tow Hearing Report	Abandoned Autos	Received
7	Parking violation	Abandoned Autos	Received
8	Photos	Abandoned Autos	Received
9	Tow Hearing Report	Abandoned Autos	Received
10	Parking Violation	Abandoned Autos	Received
11	Color photos	Abandoned Autos	Received