



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

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HEARINGS OFFICER'S ORDER

APPEAL OF NORMAN BROWN

CASE NO. 1100022

DESCRIPTION OF VEHICLE: Ford F150 (OR TAG110)

DATE OF HEARING: February 2, 2010

APPEARANCES:

Norman Brown, appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Brown appeared at the hearing and testified on his own behalf. The Hearings Officer makes this decision based upon the testimony of Mr. Brown and the documents admitted into the evidentiary record (Exhibits 1 through and including 13).

Mr. Brown submitted, along with his request for a tow appeal hearing, a number of documents (Exhibits 1, 4, 5, and 6). Mr. Brown, in Exhibit 4, states that "my notice of towed vehicle sent to me 1-28-2010." Exhibit 5 is a Notice of Towed Vehicle sent to Mr. Brown by the City of Portland Bureau of Police. Exhibit 5 indicates that the Notice of Towed Vehicle letter was sent to Mr. Brown on January 25, 2010 and refers to Mr. Brown's vehicle being towed on January 17, 2010. Mr. Brown confirmed, at the hearing, that Exhibit 5 is the only document that he received notifying him that his vehicle had been towed at the direction of the City.

Portland City Code ("PCC") 16.30.320 A. states:

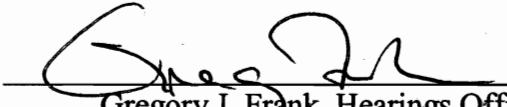
"After a vehicle has been towed pursuant to this Chapter, notice will be provided to the registered owner(s) and any other person(s) who reasonably appear to have an interest in the vehicle. Notice will be mailed to such persons within 48 hours after the tow of the vehicle, Saturdays, Sundays, and holidays excluded."

The evidence in the record is that Mr. Brown's vehicle was towed on January 17, 2010 and that the Notice of Towed Vehicle was mailed on January 25, 2010. The Hearings Officer finds that the Notice of Towed Vehicle was mailed to Mr. Brown more than 48 hours after the tow (excluding Saturday, Sunday and holidays). The Hearings Officer finds that the City did not follow its required process/procedure in this case. The Hearings Officer, therefore, finds that the tow of Mr. Brown's vehicle on January 17, 2010 was not valid.

The owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, IT IS ORDERED that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: February 3, 2010
GJF:rs/cb



Gregory J. Frank, Hearings Officer

Bureau: Police
Tow Number: 1065

Enclosure

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 3 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Brown, Norman	Received
2	Tow Desk printout	Hearings Office	Received
3	Tow Desk printout	Hearings Office	Received
4	Reason why request is late	Brown, Norman	Received
5	Notice of Towed Vehicle	Brown, Norman	Received
6	Special Report	Brown, Norman	Received
7	Hearing Notice	Hearings Office	Received
8	Tow Hearings Process Info. sheet	Hearings Office	Received
9	Towed Vehicle Record	Police Records	Received
10	Oregon Police Traffic Crash Report	Police Records	Received
11	Special Report	Police Records	Received
12	Property/Evidence Receipt	Police Records	Received
13	Receipt (duplicate of receipt attached to Exh. 13)	Brown, Norman	Received