



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

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HEARINGS OFFICER'S ORDER

APPEAL OF LARRY BROWN

CASE NO. 1100004

DESCRIPTION OF VEHICLE: Plymouth Voyager (OR 346AMW)

DATE OF HEARING: February 18, 2010

APPEARANCES:

Larry E. Brown, Appellant

HEARINGS OFFICER: Ms. Christina A. Austin-Smith

Mr. Brown appeared at the hearing and testified on his own behalf. No person appeared on behalf of the City. The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes the testimony of Mr. Brown, his wife Josephine Brown, and the documents admitted into evidence (Exhibits 1 through and including 8).

The hearing was originally scheduled for January 14, 2010. Appellant was unable to attend this hearing, and at the request of his wife, the Hearings Officer rescheduled the matter until February 18, 2010.

Mr. Brown testified that he and his wife were shopping on December 29, 2009 for 1 ½ hours. During this time a snow storm hit the city. He and his wife attempted to drive home, but found the roads to be very slick. At one point, while driving on 82nd Avenue, his car slid into the curb and he stopped. He saw several other vehicles either slide off the road or pull over. He and his wife also saw a collision in front of them. Mr. Brown and his wife made the decision to abandon the vehicle at that point, fearing it was unsafe to continue driving. Mr. Brown conceded that he knew parking was not allowed in that area, but felt he had no other choice given the weather conditions. Mrs. Brown added that she too felt it was unsafe to continue driving the vehicle given the weather conditions. At approximately 9 a.m. the next day Mr. Brown went back to retrieve the vehicle and discovered it had been towed.

A police report submitted by Officer Joshua Howery, Portland Police Bureau (Exhibit 6), indicates that he found the vehicle at 8 pm on December 29, 2009, abandoned in the right lane of Northbound 82nd Avenue, south of Sandy Boulevard. The officer wrote that the vehicle presented a hazardous condition because it was "parked on a hill and traffic could not see it until the hill was crested. In addition, the snow and ice made stopping or swerving to avoid the vehicle very difficult. This area of 82nd Avenue is very clearly marked no parking in this block."

The Hearings Officer must find a tow is valid if 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 16.20.205B indicates that "No Parking This Block" signs, without stated hours or days, are in effect all hours of all days. In addition, PCC 16.20.120Q states it is unlawful to park or stop a vehicle in a manner that creates a traffic hazard impeding the safe movement of vehicular or pedestrian traffic. A vehicle may be towed if it is in violation of a permanent parking restriction (PCC 16.30.210A1) or it is parked unlawfully or in a manner that may be hazardous to traffic (PCC 16.30.210A2). An officer is authorized to tow without prior notice when the vehicle is illegally parked in a conspicuously posted restricted space (PCC 16.30.220B) or if it is impeding or likely to impede the normal flow of vehicular traffic (PCC 16.30.220A), or if the vehicle poses an immediate danger to the public safety (PCC 16.30.220D).

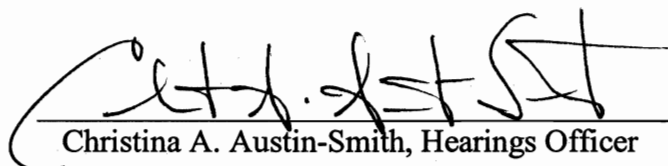
The Hearings Officer finds that Mr. Brown left his vehicle against the curb, in the right traffic lane, in a block where No Parking This Block signs were conspicuously posted. While this was undoubtedly due to his concern of driving in the snowy weather, this does not justify leaving the vehicle in a location that may be unsafe for others. The Hearings Officer also finds that due to the weather and terrain reported by the police office, Mr. Brown's vehicle was creating a traffic hazard that impeded the safe movement of vehicles who were trying to traverse this area after Mr. Brown abandoned his car. No notice was given or required in this case because the vehicle was parked in a restricted space, was impeding the normal flow of traffic and was an immediate danger to the public safety due to traffic conditions at the time.

Therefore, 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: February 19, 2010

CAS:cb



Christina A. Austin-Smith, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 25714

Exhibit #	Description	Submitted by	Disposition
1	Letter	Brown, Larry	Received
2	Tow desk printout	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Towed vehicle record	Police Bureau	Received
6	Investigation report	Police Bureau	Received
7	Letter	Brown, Larry	Received
8	Hearing Notice	Hearings Office	Received