



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

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HEARINGS OFFICER'S ORDER

APPEAL OF BETTY ESTHELLE

CASE NO. 1100038

DESCRIPTION OF VEHICLE: Toyota Corolla (WA 829ZEX)

HEARINGS OFFICER: Mr. Gregory J. Frank

The Hearings Officer admits, into the record of this case, Exhibits 1, 2, 5, 6, and 7. The Hearings Officer reviewed Ms. Esthelle's request for a hearing (Exhibit 1) and documents submitted by the City (Exhibits 2, 5, 6 and 7). Consequently, the hearing that was scheduled for February 25, 2010 at 1:45 p.m. has been cancelled.

Ms. Esthelle stated, in Exhibit 1, that the reason for her vehicle being towed on January 19, 2010 was that "Officer Ramsey Boak determined car undrivable due to leaking fluids." Exhibit 2, a Tow Desk computer printout, indicates that Ms. Esthelle's vehicle was a "PRVT" tow; a private tow. Exhibit 5, a Towed Vehicle Record, indicates that the tow of Ms. Esthelle's vehicle was "PRVT," private tow. Exhibit 6 is a computer printout from the Portland Police Bureau, which states that at 23:12 on February 19, 2010, "NB I5 at ex 304 (Rosa Parks Wy, Por) Slvr Toyota Hatchback, private request for accident."

Exhibit 7 is a hard copy of an email string regarding the tow of Ms. Esthelle's vehicle on February 19, 2010. Exhibit 7, in part, states:

"I was working I-5 on ODOT overtime when the call of a crash blocking left lanes of traffic came out. I arrived and found 4 cars blocking the left hand lane and saw that there were at least two cars on the right hand shoulder about ¼ mile north on Northbound I-5. It turned out that there were actually two different crashes involving all of the cars. I checked on all of the drivers including Mrs Esthelle and no one needed attention. Mrs Esthelle's car had significant front end damage and was leaking a lot of fluids underneath and appeared to be un-driveable. Both myself and Officer Boer told Mrs Esthelle that I would get a tow truck to pick up her car and I would drive her home. Mrs Esthelle agreed to that and I drove her to her house in Vancouver. Upon talking to the drivers involved it is my conclusion that Mrs Esthelle was at fault causing teh crash and she would be the one cited if I was to investigate the crash. As it was I only did an exchange and left it up to the insurance companies to work out the rest."

The Hearings Officer granted a hearing to Ms. Esthelle based solely upon Exhibit 1. However, upon review of Exhibits 2, 4, 6 and 7, the Hearings Officer finds that Ms. Esthelle's vehicle tow is not subject to a hearing before the City of Portland Tow Hearings Officer. The Hearings Officer finds Ms. Esthelle's tow, on February 19, 2010, to be a private tow; the Hearings Officer does not have jurisdiction over private tows.

IT IS ORDERED THAT THIS CASE BE DISMISSED and NO HEARING SHALL BE HELD ON FEBRUARY 25, 2010 as originally scheduled.

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

Dated: February 23, 2010

GJF:rs



Gregory J. Frank, Hearings Officer

Bureau: Police/Private

Tow Number: 3309

Enclosure

<u>Exhibit #</u>	<u>Description</u>	<u>Submitted by</u>	<u>Disposition</u>
1	Tow appeal letter	Esthelle, Betty	<u>Received</u>
2	Tow desk printout	Hearings Office	<u>Received</u>
3	Hearing notice	Hearings Office	
4	Tow hearing info. sheet	Hearings Office	
5	Towed Vehicle Record	Police Records	<u>Received</u>
6	Records Printout	Police Records	<u>Received</u>
7	E-mails	Police Records	<u>Received</u>