



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

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HEARINGS OFFICER'S ORDER

APPEAL OF AARON LINK

CASE NO. 1100017

DESCRIPTION OF VEHICLE: Volkswagen Golf (OR 836DUY)

DATE OF HEARING: March 2, 2010

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

A hearing was held on February 2, 2010. Mr. Link appeared and testified at the February 2, 2010 hearing.

Mr. Link, at the February 2, 2010 hearing, reviewed written comments made in Exhibit 1 (request for a tow hearing). Mr. Link testified that his vehicle was not really towed and therefore he should not be charged for the tow. Mr. Link did not dispute that his vehicle was, at the time it was allegedly towed, parked unlawfully; his vehicle was parked in a location where parking is not allowed between certain hours of the day (see Exhibit 8 – photos of Mr. Link's vehicle and signs restricting the time when vehicles could legally be parked). The Hearings Officer admits Exhibits 1 through and including 10 into the evidentiary record of this case.

The issue in this case is whether or not, under the Portland City Code, Mr. Link's vehicle was "towed."

At the February 2, 2010 hearing Mr. Link noted the following:

- his vehicle was never connected and prepared for towing
- his vehicle never left the curb on the south side of NE Glisan
- the tow driver falsified the tow form

In support of the above Mr. Link indicated that when the tow truck approached his vehicle he ran out and "found a tow truck parked in front" of his vehicle. Mr. Link stated "my car was not connected to a dolly at the time, nor did he ever hook it up to tow." Mr. Link also stated that the tow truck driver told him that he (Link) would be charged for a tow because the vehicle had "already hooked up the car and towed it from the curb." Later, Mr. Link stated "the driver had lifted the front end of my car. I requested that he let it down so I could move the car..." Mr. Link also stated that when he protested to

the tow truck driver the driver "repeatedly told me that if I did not pay he would simply drive off with my car." Finally, Mr. Link stated that "if there is a legal requirement for hooking up or moving a vehicle that has to be met before a tow operator may charge a tow fee...please return the \$141 to me..." All quoted material in this paragraph is from Exhibit 1.

At the hearing on February 2, 2010 the Hearings Officer did not render a decision. The Hearings Officer noted, at the February 2, 2010 hearing, that it appeared to the Hearings Officer that on January 13, 2010 the tow truck driver had initiated the towing process, but the towing process had not been completed when Mr. Link requested the tow truck operator to allow him to drive his vehicle away from the location. The Hearings Officer gave Mr. Link the option of continuing the hearing to a date certain or having the Hearings Officer render a decision at the February 2, 2010 hearing. The Hearings Officer gave this option to Mr. Link for two purposes: First, to allow Mr. Link to obtain witness statements or present witnesses at the rescheduled hearing (as requested in Exhibit 1) and Second, to inquire of the City of Portland Tow Coordinator (Ms. Gaylord) as to any remedies Mr. Link may have against the tow truck operator/company. Mr. Link asked the Hearings Officer to continue the hearing. The Hearings Officer rescheduled the hearing to March 2, 2010 at 3:00 p.m.

Mr. Link did not appear at the March 2, 2010 hearing. The Hearings Officer makes this decision based upon the admitted Exhibits and the testimony of Mr. Link at the February 2, 2010 hearing.

The Hearings Officer finds there is no dispute in this case that Mr. Link's vehicle was parked unlawfully on January 13, 2010. The Hearings Officer finds that a parking patrol officer, on January 13, 2010, did observe Mr. Link's vehicle, unlawfully parked, and issued a citation that was placed on the windshield of the vehicle (Exhibit 6). The Hearings Officer finds that the parking patrol officer, on January 13, 2010, did request "dispatch to send a tow truck" (Exhibit 6). The Hearings Officer finds that the parking patrol officer followed the relevant laws/rules by ordering a vehicle to be towed, without prior notice to the owner, because the vehicle was parked in a conspicuously posted/signed location restricting parking at the time Mr. Link's vehicle was parked.

The Hearings Officer notes that there is no definition of "tow" in the Portland City Code Title 16 ("PCC Title 16"). The Hearings Officer notes PCC Title 16 section 16.30.510 (Towing and Storage Rates). PCC 16.30.510 states, in relevant part, that "if a vehicle is towed by City equipment and personnel, the charges will be fixed by a schedule approved by Council." The Hearings Officer notes that a charge is assessed, by the schedule approved by Council, if a tow truck operator hooks up and/or connects the tow truck to the private vehicle. The Hearings Officer refers to such activity as a "drop fee." The Hearings Officer, therefore finds that a tow occurs when a tow operator initiates a hook-up (starts the connection of the tow truck to the vehicle intended to be towed).

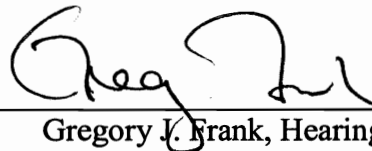
The Hearings Officer finds that Mr. Link's vehicle was hooked up to the tow truck (per Mr. Link's comment that he asked the tow truck operator to let his vehicle down) and a tow had occurred. The Hearings Officer finds that the tow of Mr. Link's vehicle was valid because the person (Parking Patrol Officer) who ordered the vehicle towed followed the relevant laws/rules. The Hearings Officer notes, however, that pursuant to the City tow contract, it is likely that only a "drop fee" should have been charged to Mr. Link. Mr. Link may pursue the possibility that the tow truck operator overcharged him for the tow of his vehicle on January 13, 2010 through the City of Portland Tow Coordinator.

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: March 12, 2010

GJF:rs/cb



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement

Tow Number: 777419

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Link, Aaron	Received
2	Tow Invoice	Link, Aaron	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Tow Hearings Process Info. sheet	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation	Parking Enforcement	Received
8	Photos	Parking Enforcement	Received
9	Request to reschedule	Link, Aaron	Received
10	Rescheduled hearing notice	Hearings Office	Received