



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

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HEARINGS OFFICER'S ORDER

APPEAL OF RITA C.A. BUTCHER-GRAHAM

CASE NO. 1100043

DESCRIPTION OF VEHICLE: Oldsmobile Cutlass (OR RLA771)

DATE OF HEARING: March 11, 2010

APPEARANCES:

Appellant did not appear

HEARINGS OFFICER: Ms. Christina A. Austin-Smith

The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes Exhibits 1 through and including 7, which the Hearings Officer finds relevant to this case.

Ms. Butcher-Graham did not appear at a hearing, but did submit a handwritten letter requesting a hearing dated February 24, 2010, which also provides reasons why she does not think the tow was valid (Exhibit 1). Exhibit 1 was received by the City of Portland Hearings Office on March 4, 2010. On March 5, 2010, the Hearings Office mailed Ms. Butcher-Graham a notice of hearing for March 11, 2010, at 1:45 p.m. (Exhibit 3). This notice was not returned as undeliverable, nor did Ms. Butcher-Graham contact the Hearings Office prior to the hearing via telephone, in person or fax.

In her letter, Ms. Butcher-Graham indicates her Oldsmobile Cutlass Ciera was towed on February 22, 2010. She writes that "the 'tow away' sign was not visible to me because it was hidden by a white and dark color p/up camper." She indicates she parked in front of the pickup, with part of her vehicle under a tree and part of it in front of the camper, making it impossible to see the sign.

A report submitted by City of Portland Transportation Parking Enforcement Officer J. Flett was admitted as Exhibit 5. Officer Flett wrote the following: "I received a service request to tow a vehicle blocking a driveway on the North side of Ramona between 122-123rd. The vehicle was a Oregon Oldsmobile RLA771. I observed it was totally blocking the gate into the driveway. I took pictures and observed there were ruts in the street at the driveway entrance." Exhibit 7 includes photos taken by the officer, which include a picture of a No Parking sign.

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 16.20.130 lists specific areas where parking is prohibited. PCC 16.20.130V is "in front of any portion of a driveway ingress/egress to the public right-of-way." If a street is unimproved, PCC 16.90.105 defines driveway as "the driveway area falls between the projections of the edges of an improved driveway or the most established tire ruts

of an unimproved driveway.” PCC 16.30.210A2 permits a vehicle to be towed when it is parked unlawfully or in a manner that may be hazardous to traffic. In addition, PCC 16.30.210A1 permits a vehicle to be towed when it is in violation of a permanent parking restriction. PCC 16.20.220B permits a tow without prior notice when the vehicle is illegally parked in a “conspicuously posted restricted space” or “at any time and place the vehicle is interfering or reasonably likely to interfere with the intended use of such a space.”

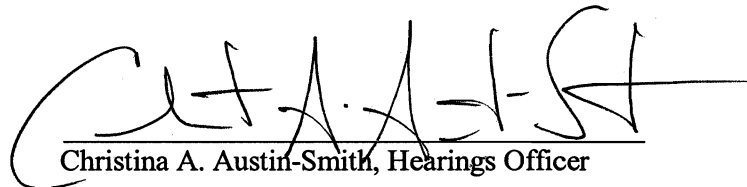
The Hearings Officer finds that Ms. Butcher-Graham’s vehicle was parked illegally on two basis: first, she parked her vehicle in a driveway and second, she parked in a spot with conspicuous signage for No Parking. While apparently Ms. Butcher-Graham did not see the sign due to another vehicle blocking her view, this fact alone does not relieve her responsibility to ensure she is parked in a valid parking space. The vehicle was properly ordered towed and no notice was required because it was parked illegally in a posted restricted space, and because it was interfering with use of the driveway.

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: March 12, 2010

CAS:rs/cb



Christina A. Austin-Smith, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 3474

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Butcher-Graham, Rita C.A.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received