



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

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HEARINGS OFFICER'S ORDER

APPEAL OF SAM HENSOLD

CASE NO. 1100046

DESCRIPTION OF VEHICLE: Honda Civic (WA 043UMF)

DECISION WITHOUT PERSONAL APPEARANCE

HEARINGS OFFICER: Ms. Christina A. Austin-Smith

Mr. Hensold did not appear at a hearing, but instead requested on March 9, 2010, that a decision on his appeal be made without appearance. The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes Exhibits 1 through and including 4, that the Hearings Officer finds relevant to this case.

Mr. Hensold faxed a request for hearing letter to the City of Portland Hearings Office at 5:01 p.m. on March 9, 2010 (Exhibit 1). Mr. Hensold requested a decision without his personal appearance because he does not live in the Portland area. In his request for hearing, Mr. Hensold explained that his car was stolen in Vancouver, Washington, and he reported this to the Clark County Police Department. He indicated he was notified on March 6, 2010, "that my car was found in Portland, but had been towed and was being held for fingerprinting." He contests the validity of the towing action and his financial liability for the tow and storage. He stated he did not sign a waiver with the police department authorizing a tow if the car was recovered. He indicated had he been notified, "I could have gotten the car myself within 15 minutes."

Exhibit 4 is an investigation report submitted by the Portland Police Bureau. The report indicates Mr. Hensold's vehicle was located by Officer Cory Stenzel, Portland Police Bureau, on March 6, 2010, after responding to a call from Baxter's Auto Parts about a suspicious vehicle in the back parking lot. Officer Stenzel ran the vehicle's license plate number and confirmed it was stolen by the VIN. The officer noted the inside of the car had been ransacked and the stereo was stolen. The officer also noted "immediately prior to recovering this car, I was in a foot pursuit starting at 168/Taggart with ALLEN who I know to be a car thief." The officer requested, on Exhibit 4, that the vehicle be held pending fingerprints.

Exhibit 3 is a towed vehicle record submitted by the Portland Police Bureau. The record indicates the vehicle was placed on temporary hold on March 6, 2010, at 1909, for fingerprints. The hold was lifted at 1100 on March 9, 2010.

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 16.30.210A5 authorizes the city to tow a vehicle and hold it at the expense of the owner if the vehicle has been reported as stolen. Additionally, PCC 16.30.210A6 authorizes the city to tow a vehicle and hold it at the expense of the owner if the vehicle is to be used as evidence in a criminal prosecution. PCC 16.30.220F authorizes the officer to have

the vehicle towed without prior notice if the officer "reasonably believes that the vehicle is stolen." Similarly, PCC 16.30.220G authorizes the officer to have the vehicle towed without prior notice if the officer "reasonably believes that the vehicle or its contents constitute evidence of any offense, if such towing is reasonably necessary to obtain or preserve such evidence."

Portland Police Bureau Administrative Rule 630.60 governs procedures for an officer to follow when recovering a stolen vehicle. These rules permit an officer to have a vehicle towed and placed on temporary hold without prior notice to the registered owner when the "member reasonably believes the vehicle is stolen" and when "towing is reasonably necessary to obtain or preserve evidence." The rule also permits vehicles to be fingerprinted for evidence when "there is a known suspect in a stolen/received case, and the fingerprints are needed to place the suspect at the car." The rule states a temporary hold will expire 72 hours following placement, excluding weekends and holidays.

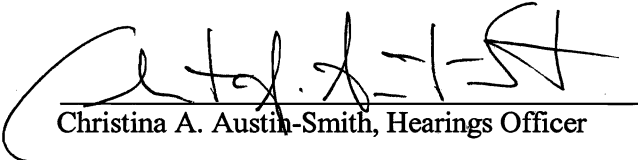
The Hearings Officer finds that Mr. Hensold's vehicle had been reported as stolen in Vancouver, Washington, and was recovered by the Portland Police Bureau in the back parking lot of Baxter's Auto Parts at 16716 S.E. Division Street. The Hearings Officer finds that Officer Stenzel verified the vehicle was stolen by checking the VIN. The officer also observed that the vehicle had been ransacked and the stereo was missing. The Hearings Officer also finds that immediately prior to receiving this call, the officer had been on an unsuccessful foot pursuit with a known car thief in the immediate vicinity. The Hearings Officer finds that Officer Stenzel properly requested the vehicle be towed as a recovered stolen vehicle and fingerprinted, based on his attempt to identify and connect his known car thief suspect with the stolen vehicle. The Hearings Officer finds the vehicle was placed on temporary hold on March 6, 2010, at 1909 and was released from hold on March 9, 2010, at 1100, which is within the 72-hour time period specified by PPB Rule 630.60. Accordingly, the Hearings Officer finds that the vehicle was properly towed and placed on temporary hold.

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

CAAS:rs



Christina A. Austin-Smith, Hearings Officer

Bureau: Police
Tow Number: 4240

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Hensold, Sam	Received
2	Tow Desk printout	Hearings Office	Received
3	Towed Vehicle Record	Police Records	Received
4	Investigation Report	Police Records	Received