



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

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HEARINGS OFFICER'S ORDER

APPEAL OF CHRIS A. HAMILTON

CASE NO. 1100051

DESCRIPTION OF VEHICLE: Nissan Altima (OR YFS944)

DATE OF HEARING: April 1, 2010

APPEARANCES:

None

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 8, which the Hearings Officer finds relevant to this case.

The appellant did not appear at a hearing, but did submit a handwritten letter requesting a hearing dated March 22, 2010, which also provides reasons why appellant does not think the tow was valid (Exhibit 1). Exhibit 1 was received by the City of Portland Hearings Office on March 22, 2010. On March 22, 2010, the Hearings Office mailed appellant a notice of hearing for April 1, 2010, at 1:45 p.m. (Exhibit 3). This notice was not returned as undeliverable, nor did appellant contact the Hearings Office prior to the hearing via telephone, in person or fax.

In the letter, appellant indicates:

"I am contesting this towing as being invalid due to the fact that the vehicle was not left or abandon on the block what so ever. My vehicle was towed shortly after I parked it down the street from my nearby friend's house until I could return and pick it up. I feel my vehicle was wrongfully towed based on the fact that a neighbor didn't like where I was parked, not because it was in violation of any parking rules. I had moved the car two houses down from my friend Zach's house on the block where it was shortly there after towed before I could return to pick it up. I believe it could not have been sitting on the block longer than 24 to 72 hrs before a tow truck came, tagged it, and towed it. This vehicle was not abandon but, was simply parked down the street from my friend's house briefly, not blocking, or in front of, any neighborhood house front. It was my intention to pick up my vehicle and renew the tags/registration before it was wrongfully towed and myself being notified."

A report submitted by Inspector W. May, City of Portland Transportation Abandoned Auto Section, was admitted as Exhibit 5. Inspector May indicates that on March 5, 2010, Chris Hamilton's black Nissan, Oregon license #YFS944, was observed parked at 6841 N. Michigan, Portland, OR. The vehicle was cited for failing to display a current registration (Exhibit 6) and a green tow warning sticker was placed on the street side, driver's window,

referencing a violation of PCC 16.20.120P, abandoned vehicle, for failure to display a current registration. This sticker informed the owner that the vehicle needed to be removed from the public right of way after 72 hours of issuance of the notice, or it would be towed. Inspector May writes that on March 12, 2010, a follow up inspection revealed the vehicle was still parked in front of the same address and there was still no current registration displayed. Accordingly, Inspector May issued a citation (Exhibit 8) and ordered the vehicle towed.

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 16.20.120L indicates it is unlawful to park a vehicle whose registration has expired or fails to display current registration. Additionally, PCC 16.20.120P prohibits a vehicle to be parked in the public right-of-way if the vehicle is "abandoned." PCC 16.90.005A defines a vehicle as abandoned if it fails to display current registration. PCC 16.30.225B allows the city to have a vehicle towed 72 hours after notice of intent to tow is affixed to or placed on the vehicle if the vehicle is abandoned.

The Hearings Officer finds Inspector May's report and copies of the citations issued to Chris Hamilton (Exhibits 5, 6 and 8) to be credible and accurately reflect the events leading to the inspector's order to have the vehicle towed as an abandoned auto on March 12, 2010. The Hearings Officer finds that on March 5th, the vehicle was observed with expired registration plates and a notice to tow sticker as an abandoned auto, for failure to display current registration, was properly affixed to the vehicle at 10:53 a.m. The Hearings Officer finds that the vehicle was found at the same address, on the public right-of-way, still without current registration, on March 12, 2010, which was more than the 72 hours required by PCC 16.30.225B before having the vehicle towed. Accordingly, the Hearings Officer finds that the vehicle was properly ordered towed.

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: April 2, 2010
CAAS:cb/rs



Christina A. Austin-Smith, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 4643

| Exhibit # | Description | Submitted by | Disposition |
|-----------|-------------------------|--------------------|-------------|
| 1 | Letter | Hamilton, Chris A. | Received |
| 2 | Tow desk printout | Hearings Office | Received |
| 3 | Hearing notice | Hearings Office | Received |
| 4 | Tow hearing info. sheet | Hearings Office | Received |
| 5 | Report | Abandoned Autos | Received |
| 6 | Parking Violation | Abandoned Autos | Received |
| 7 | Photos | Abandoned Autos | Received |
| 8 | Parking Violation | Abandoned Autos | Received |