



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

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HEARINGS OFFICER'S ORDER

APPEAL OF ANASTASIOS KOUKOUMANOS

CASE NO. 1100056

DESCRIPTION OF VEHICLE: Homemade Utility Trailer (No Plate)

DATE OF HEARING: April 8, 2010

APPEARANCES:

Mr. Anastasios Koukoumanos, Appellant

HEARINGS OFFICER: Ms. Christina A. Austin-Smith

Mr. Koukoumanos appeared at the hearing and testified on his own behalf. No person appeared on behalf of the City. The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes the testimony of Mr. Koukoumanos and the documents admitted into evidence (Exhibits 1 through and including 11).

Mr. Koukoumanos submitted a letter from a neighbor regarding the towing of his utility trailer (Exhibit 10) and copies of receipts from Metro Central Station to show dates his trailer was used as part of his business (Exhibit 11). Mr. Koukoumanos testified that he owns a construction business and uses this trailer as part of the business all the time. He testified he parks it at his residence to load it and unload it. He explained he uses his garage for storage. Mr. Koukoumanos stated he did not receive any notice that the trailer was parked illegally. On the day the trailer was towed, he stated he thought it had been stolen and reported it to the Portland Police Bureau. He testified that he only learned it was towed when a neighbor told him about it. In answers to questions from the Hearings Officer, Mr. Koukoumanos explained that he works six or seven days a week and runs his business from his home. He explained that he loads the trailer and unloads it "all the time," but after questions by the Hearings Officer, did agree there was not always activity at the trailer and sometimes he leaves it overnight.

The Abandoned Auto Section of the City submitted a report by Inspector S. Layman and photos of the trailer before it was towed (Exhibits 6 and 8). In the report, Inspector Layman states the vehicle was "found where reported at 100 SE 57th on Tuesday the 9th of March at 1:35 p.m, the trailer was warned with a wire attached warning to the tough of the trailer. I returned on the 23rd of March to find the warning was gone but the wire was still on the trailer, and it was cited at that time for prohibited trailer. There was no activity (sic) at that trailer apone (sic) warning or citing." This report indicates the tow warning was affixed and an "X" was placed by "Abandoned Vehicle (16.20.120P, def. 16.90.005)" and an "X" was placed by "Prohibited truck, trailer, bus, RV (16.20.120H,I)." The photos include a close up of a wire attached to the trailer's hitch, but no warning tag is visible.

The Hearings Officer must find a tow is valid if the person ordering the tow followed the relevant laws/rules. In this case, Inspector Layman indicated marking two bases on the warning sticker for the tow, both of which are found in the Portland City Code ("PCC") Title 16. PCC 16.30.210A10 permits a vehicle to be towed from a public right-of-way when it has been abandoned. Abandoned is defined in PCC 16.90.005B as a vehicle that remains in violation for more than 24 hours and one or more of the following conditions exist: the vehicle a) does not have a lawfully affixed, unexpired registration plate, or fails to display current registration; b) appears to be inoperative or disabled; c) appears to be wrecked, partially dismantled, or junked. PCC 16.20.120H, in pertinent part, states it is unlawful to park or stop a vehicle when the vehicle is a truck, a truck trailer, a motor bus, a recreational vehicle, a utility trailer, a drop box or storage container, or has two or more rear axles in the public right-of-way adjacent to or directly across from residential, public park, church or school property, except: 1) when loading/unloading property belonging to the occupants of or performing a service on the adjacent residence, for a period not to exceed 8 hours. PCC 16.30.225B permits a vehicle to be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle if the vehicle is an abandoned vehicle, or PCC 16.30.225C permits a vehicle to be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle if the vehicle is in violation of 16.20.120H or I, or 16.20.170.

The Hearings Officer finds that Mr. Koukoumanos did have his utility trailer parked in a residential neighborhood outside his residence on March 9, 2010, and that he received a warning notice from the City of Portland indicating that his vehicle may be towed 72 hours after issuance of the notice because it was in violation of two City codes. While Mr. Koukoumanos contests ever having seen this warning sticker, the Hearings Officer finds the written report of Inspector Layman to be credible and finds no motive for the inspector to falsify the report. Inspector Layman offers specific details about placing the tag on the trailer using a wire and reports seeing the wire still attached to the trailer, minus the warning sticker itself, on March 23, 2010. Photos are included to support this assertion. The Hearings Officer finds, based on the testimony of Mr. Koukoumanos, that it is his standard practice to park this utility trailer that he uses in the course of his business outside his residence on the city right-of-way. While Mr. Koukoumanos did testify that he routinely is loading and unloading the trailer, the Hearings Officer finds that the evidence indicates that there are periods of time, to include overnight, where there is no active loading or unloading of the trailer and it is present longer than an 8-hour period. The Hearings Officer finds that the trailer is parked on the city street as a routine storage location when Mr. Koukoumanos is not using it for his business, when he is not just actively loading or unloading the trailer.

Accordingly, the Hearings Officer first finds that Mr. Koukoumanos was not in violation of PCC 16.30.210A10 for having an abandoned vehicle in the public right-of-way. There is no evidence on the record that the vehicle did not have a lawfully affixed or current registration, that it was inoperative or disabled, or that it was wrecked, partially dismantled or junked.

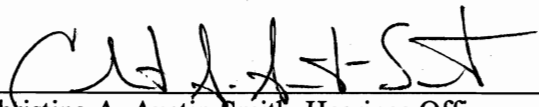
However, the Hearings Officer does find that Mr. Koukoumanos was in violation of PCC 16.20.120H because he did have a utility trailer in the public right-of-way adjacent to or directly across from a residential property and he was not actively unloading or loading the trailer, nor was he performing a service on the adjacent residence.

PCC.16.30.225C does not allow the City to tow a vehicle in violation of PCC 16.20.120H until 72 hours after notice of intent to tow has been affixed to or placed on the vehicle. The Hearings Officer finds that notice was properly affixed to Mr. Koukoumanos' trailer via a wire warning tag on March 9, 2010 at 1:35 p.m., and that his trailer was not towed until March 23, 2010, which is past the 72 hours.

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 9, 2010
CAAS:cb/rs


Christina A. Austin-Smith, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 5389

<u>Exhibit #</u>	<u>Description</u>	<u>Submitted by</u>	<u>Disposition</u>
1	Tow hearing request form	Koukoumanos, Anastasios	Received
2	Receipts (2 pgs)	Koukoumanos, Anastasios	Received
3	Tow desk printout	Hearings Office	Received
4	Hearing notice	Hearings Office	Received
5	Tow hearing info. sheet	Hearings Office	Received
6	Tow hearing report	Abandoned Autos	Received
7	Parking Violation	Abandoned Autos	Received
8	Photos	Abandoned Autos	Received
9	Case detail	Abandoned Autos	Received
10	Letter from Richard Jensen	Koukoumanos, Anastasios	Received
11	Copies of receipts (not tow receipts)	Koukoumanos, Anastasios	Received