



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

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**HEARINGS OFFICER'S ORDER**

**APPEAL OF ROBERT LEWIS ROBSON**

**CASE NO. 1100064**

**DESCRIPTION OF VEHICLE: Ford F250 (OR ZBF240)**

**DATE OF HEARING: April 12, 2010**

**APPEARANCES:**

**Bruce Tarbox, P.C., for Appellant**

**HEARINGS OFFICER: Mr. Gregory J. Frank**

**Findings of Fact and Conclusions of Law:**

Mr. Bruce Tarbox, attorney, appeared at the hearing on behalf of his client Mr. Robson. The Hearings Officer makes this decision based upon the arguments presented by Mr. Tarbox and the documents admitted into the evidentiary record (Exhibits 1 through and including 11, 13, 19 and 20); documents not admitted (Exhibit 12 and 14 through and including 18) related to events occurring after Mr. Robson's vehicle was ordered towed on April 2, 2010.

Mr. Tarbox argued that there is no evidence in the record indicating that Mr. Robson's vehicle was parked, on April 2, 2010 immediately prior to its being towed, in an unlawful or dangerous parking location. The Hearings Officer reviewed Exhibit 13 and found no description, by the police officer, of the location where Mr. Robson parked his vehicle as a result of the traffic stop on April 2, 2010. The Hearings Officer finds that if a vehicle, when stopped by the police, is not in a location where the vehicle itself is at a safety risk or the vehicle does not create a safety risk to pedestrians, bicycles or other motorized vehicles, the vehicle may not be legally towed under the U. S. District Court decision in *Miranda v. City of Cornelius*, 429 F 3d 858 (2005).

The Hearings Officer finds there is no evidence in the record to suggest that the location where Mr. Robson parked his vehicle as a result of the traffic stop on April 2, 2010 created a safety risk to his vehicle or other persons/bicycles/vehicles. The Hearings Officer finds that without additional evidence in the record the Hearings Officer must find that at the police officer who ordered Mr. Robson's vehicle towed on April 2, 2010 did not follow the relevant laws/rules. The Hearings Officer, therefore, finds the tow of Mr. Robson's vehicle on April 2, 2010 not valid.

**Order:**

1. The owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.
2. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: April 13, 2010  
GJF:cb

  
Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Police  
Tow Number: 5970

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 3 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Tarbox, P.C., Bruce	Received
2	Notice of Impoundment Towing	Tarbox, P.C., Bruce	Received
3	Release Agreement	Tarbox, P.C., Bruce	Received
4	Receipt	Tarbox, P.C., Bruce	Received
5	Tow Desk printout	Hearings Office	Received
6	Hearing Notice	Hearings Office	Received
7	Tow Hearings Process Info. sheet	Hearings Office	Received
8	Towed Vehicle Record	Police Records	Received
9	Oregon Driver License	Police Records	Received
10	Formal Hold	Police Records	Received
11	Vehicle Release	Police Records	Received
12	Custody Report	Police Records	Rejected
13	Special Report	Police Records	Received
14	DUII Interview Report	Police Records	Rejected
15	Interview	Police Records	Rejected
16	Implied Consent	Police Records	Rejected
17	Intoxilyzer 8000 Operator's Checklist	Police Records	Rejected
18	Breath Test Report	Police Records	Rejected
19	Notice of Impoundment Towing	Police Records	Received
20	Copy of money order	Tarbox, P.C., Bruce	Received