



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

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HEARINGS OFFICER'S ORDER

APPEAL OF CHARLES SHAPIRO

CASE NO. 1100071

DESCRIPTION OF VEHICLE: Isuzu Trooper (OR VWD409)

DATE OF HEARING: May 6, 2010

APPEARANCES:

Mr. Charles Shapiro, Appellant

HEARINGS OFFICER: Ms. Christina A. Austin-Smith

Mr. Charles Shapiro appeared at the hearing and testified on his own behalf. No one 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. Shapiro and the documents admitted into evidence (Exhibits 1 through and including 9).

Summary of Evidence:

When requesting a hearing, Mr. Shapiro submitted a letter contesting the validity of the tow (Exhibit 1), a copy of the traffic citation (Exhibit 2), and 5 color photos of the area where his vehicle was parked and then towed (Exhibit 3). In his letter, Mr. Shapiro admits he "intentionally parked beyond the southern most space in a No Stopping Zone." At the hearing, Mr. Shapiro testified, admitting that he was parked where there was no formal parking spot and that he did see the sign indicating No Stopping or Parking in that area. However, Mr. Shapiro challenged the tow because there was no sign indicating the penalty for parking in this slot was that his vehicle would be towed, as was seemingly indicated on the parking violation issued by the enforcement officer (Exhibit 8). In addition, he challenged the officer's report that states where his vehicle was parked was a hazard to other traffic. Mr. Shapiro testified that in his opinion, there were two or three parking spots right behind his vehicle, and his vehicle was not creating any additional hazard.

Officer L. Sasnett, City of Portland Parking Enforcement Division, ordered the tow and issued a parking citation, as evidenced by Exhibits 7 through 9. Officer Sasnett wrote: "Upon routine patrol I came across a veh parked in the Auxiliary vehicular lane. Traffic was forced to cross the double solid white lines into the bus/MAX lane before returning to there(sic) lane. Veh was towed for the safety hazard it posed" (Exhibit 7). The officer drew a picture of the sign and submitted photos (Exhibit 9), that reads "Stopping or Parking Prohibited" with an arrow pointing in the direction of Mr. Shapiro's vehicle. The officer wrote "the signage is there because the traffic lane merges to the curbside on this blockface" (Exhibit 7).

Applicable Law:

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 16.20.213 states: "No vehicle may stop or park in any no parking or stopping zone." PCC 16.90.295 indicates a regulated parking zone is the space adjacent to a curb, designated by official signs or markings. PCC 16.30.210A1 permits a vehicle to be towed when in violation of a permanent parking restriction. PCC 16.30.220B permits a tow without prior notice when the vehicle is illegally parked in a conspicuously posted restricted zone.

Findings of Fact and Conclusions of Law:

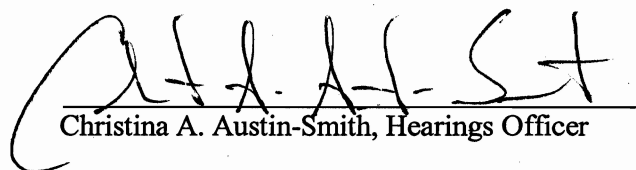
The Hearings Officer finds, based on the documentary evidence, photos, and admissions of Mr. Shapiro, that Mr. Shapiro did park and leave his vehicle in a space clearly marked as "Stopping or Parking Prohibited." The Hearings Officer finds that this signage was clear, visible, and that Mr. Shapiro did understand on the evening he parked his vehicle in that location that it was not a valid parking spot. The Hearings Officer considered Mr. Shapiro's assertions about the lack of a "tow warning" sign and his opinion that his vehicle posed no hazard to traffic, but finds them irrelevant based on the language of PCC 16.20.213 and PCC 16.30.220B, as a warning sign and hazard to other traffic are not requirements when parked illegally in violation of a posted parking restriction. Accordingly, the Hearings Officer finds this to be a valid tow, and no notice was required.

Order:

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: May 7, 2010
CAAS:rs



Christina A. Austin-Smith, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 7000

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Shapiro, Charles	Received
2	Parking Violation	Shapiro, Charles	Received
3	Photos (2 pages)	Shapiro, Charles	Received
4	Tow Desk printout	Hearings Office	Received
5	Hearing Notice	Hearings Office	Received
6	Tow Hearings Process Info. sheet	Hearings Office	Received
7	Tow hearing report	Parking Enforcement	Received
8	Parking violation	Parking Enforcement	Received
9	Photos	Parking Enforcement	Received