



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

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HEARINGS OFFICER'S ORDER

APPEAL OF ANGELA T. MECHALEY

CASE NO. 1100100

DESCRIPTION OF VEHICLE: Scion XB (OR 185DVR)

DATE OF HEARING: June 24, 2010

APPEARANCES:

Ms. Angela Mechaley, Appellant

HEARINGS OFFICER: Ms. Christina A. Austin-Smith

Ms. Mechaley appeared at the hearing and testified on her 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 Ms. Mechaley and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Ms. Mechaley testified that she had a Zone A resident permit and on June 2, 2010, parked in one of these spaces when no temporary no parking signs were posted. Ms. Mechaley stated that she did not check her car for the next day or so and then later discovered it was towed. Ms. Mechaley submitted Exhibit 8, which is a copy of a document from the Multnomah Circuit Court and a copy of her Zone A permit.

Officer J. Wheeler, City of Portland Parking Enforcement Division, did not appear at the hearing, but did submit a written report, photos, and a copy of the citation he issued (Exhibits 5 through 7). Officer Wheeler ordered the tow on June 4, 2010, around 10:47 a.m. Officer Wheeler indicates that the car was parked where temporary signs indicate "No Parking This Block All Hours/All Days 6/4/10." He wrote: "Barricades were verified as placed and valid at 9:58 a.m. on June 3. Area was clearly marked as shown by pictures." The photos (Exhibit 7) clearly show the temporary no parking signs posted and Ms. Mechaley's vehicle in one of these slots.

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 16.20.170A states that "no person may store, or permit to be stored, a vehicle or other personal property on public right-of-way or other public property in excess of 24 hours without permission..." PCC 16.20.170B states that "failure to operate and move a vehicle or move nonvehicular property off of the block face within a 24-hour period constitutes prima facie evidence of storage and may be abated." PCC 16.20.860B, which governs violations and enforcement of the Area Parking Permit Program, states that the permit "does not authorize parking in any other

restricted zone. Permitted vehicles are subject to the provisions of 16.20.170." PCC 16.20.205C states "a sign which prohibits parking during certain hours or days such as 'No Parking 7 a.m. to 9 a.m. Monday through Friday' ... is in effect during the days and times shown on the sign, excluding City recognized holidays." PCC 16.30.210A authorizes the City to tow a vehicle and be held at the expense of the owner if it is parked in the public right-of-way and "is parked in violation of a temporary or permanent parking restriction" (PCC 16.30.210A1) or "the vehicle is stored on the street in violation of 16.20.170" (PCC 16.30.210A11). PCC 16.30.210D states "temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area." PCC 16.30.220B allows an officer to order a vehicle towed without prior notice when it is illegally parked in a conspicuously posted restricted space.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that Ms. Mechaley properly parked her car in a Zone A permitted parking area on Wednesday, June 2, 2010. The Hearings Officer also finds that on Thursday, June 3, 2010 at 9:58 a.m. temporary No Parking signs reading "No Parking This Block All Hours/All Days 6/4/10" were posted at the location where she was parked. The Hearings Officer finds that on Friday, June 4, 2010 at 10:47 a.m., Officer Wheeler properly ordered Ms. Mechaley's vehicle towed because it was in violation of a temporary No Parking zone that had been properly posted 24-hours prior. The Hearings Officer finds that even though Ms. Mechaley had no knowledge of her violation at the time of the tow, and did not intend to violate the temporary No Parking zone, this does not negate her liability for the towing in this case, because she was in violation of PCC 16.20.170 for having "stored" her vehicle on the public right-of-way for longer than 24 hours without permission. Ms. Mechaley's Zone A parking permit does not allow her to violate this code provision. Additionally, the Hearings Officer finds that no prior notice of the tow itself was required, because Ms. Mechaley's vehicle was illegally parked in a conspicuously posted restricted space, as evidenced by Exhibit 7.

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: June 30, 2010
CAAS:rs


Christina A. Austin-Smith, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 10044

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Mechaley, Angela T.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Tow hearing report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Data printout w/copy of parking permit (3 pgs)	Mechaley, Angela T.	Received