



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Walker Yost

CASE NO. 1110040

DESCRIPTION OF VEHICLE: Trailer, Homemade (WA 4328PB)

DATE OF HEARING: April 14, 2011

APPEARANCES:

Appellant did not appear

Deborah Barkley, on behalf of the Abandoned Autos Section

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Yost did not appear at the hearing to testify on his own behalf. Ms. Deborah Barkley 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. Barkley and the documents admitted into evidence (Exhibits 1 through and including 10).

Summary of Evidence:

Mr. Yost submitted a Tow Hearing Request Form, Exhibit 1, in which he indicated that, "My trailer was parked in front of my house [sic] Attached to my truck [sic] Yes the tabs were expired but I needed to return to get new plates from WA which I did on Spring break. I am attending medical school and have no money and even less time. I moved my belonging down here in my trailer on a Sat and had planned to have my tags sent." Mr. Yost did not appear at the hearing or provide any further information about the tow of his vehicle.

The City submitted Exhibits 5 through, and including, 8 for the Hearings Officer's consideration. Ms. Deborah Barkley also appeared and testified on behalf of the City. Ms. Barkley submitted Exhibits 9 and 10 for the Hearings Officer's consideration. Ms. Barkley testified that a call was received by the Abandoned Autos section on March 7, 2011 regarding Mr. Yost's trailer. Ms. Barkley testified that on March 14, 2011 she located the vehicle and "warned" it by affixing a green sticker to the back of the vehicle using wire. Ms. Barkley indicated that the sticker was marked to show that that the vehicle was subject to tow because it failed to display current registration and it was also a prohibited trailer under PCC 16.20.120H. Ms. Barkley testified that she returned to the area on March 21, 2011 and found that the trailer had been moved and was now located on a dead end street. Ms. Barkley testified that she did not tow the vehicle on that day, but noted that the previously noted violations still existed. On March 24, 2011 Ms. Barkley returned to the area and found that the vehicle was still in the same

location, on the dead end street, and she ordered the vehicle towed. Ms. Barkley testified that the basis for the tow on March 24, 2011 was that the vehicle was a prohibited trailer under PCC 16.20.120H.

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 16.90.425 defines vehicle as "Every device in, upon, or by which any person or property is or may be transported or drawn upon any street or highway." PCC 16.20.120H provides that "it is unlawful to park or stop a vehicle when the vehicle is a . . . utility trailer . . . in the public right-of-way adjacent to or directly across from residential . . . property, except 1. when loading/unloading property belonging to occupants of or performing a service on the adjacent resident, for a period not to exceed 8 hours; . . ." PCC 16.30.210A9 provides that a vehicle may be towed from the public right-of-way when it is parked in violation of any parking regulation. PCC 16.30.225C reads that "a vehicle may 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."

Findings of Fact and Conclusions of Law:

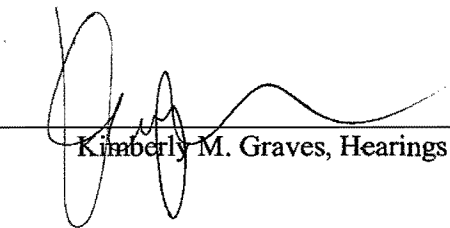
The Hearings Officer finds that Mr. Yost's trailer is a vehicle under PCC 16.90.425. The Hearings Officer finds that on March 14, 2011 proper notice of intent to tow was affixed to Mr. Yost's vehicle indicating that the vehicle was a prohibited trailer under PCC 16.20.120H. The Hearings Officer finds that between March 14, 2011 and March 24, 2011 Mr. Yost's trailer remained in violation of PCC 16.02.120H. The Hearings Officer finds that the tow of Mr. Yost's trailer occurred greater than 72 hours after notice of intent to tow was affixed to the trailer. The Hearings Officer finds that the tow of Mr. Yost's trailer is valid.

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: April 15, 2011
KMG:jeg



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 5464

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Yost, Walker	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearings Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Abandoned Autos	Received
6	Tow Detail	Abandoned Autos	Received

7	Parking Violation	Abandoned Autos	Received
8	Photos	Abandoned Autos	Received
9	Parking Violation	Abandoned Autos	Received
10	Photos	Abandoned Autos	Received