



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF Steven N. Rasmussen

CASE NO. 1110047

DESCRIPTION OF VEHICLE: Big Tex Lil-Tex Trailer, No Plates

DATE OF HEARING: April 19, 2011

### APPEARANCES:

Steven N. Rasmussen, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Rasmussen appeared at the hearing and testified on his own behalf. No person appeared at the hearing to testify on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Mr. Rasmussen and the documents admitted into the evidentiary record (Exhibits 1 through and including 7).

The Hearings Officer must find a tow is valid if the Hearings Officer finds that 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. Specifically, PCC 16.20.120 states that "it is unlawful to park or stop a vehicle

- H. When the vehicle is: a truck, 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; or
  2. A recreation vehicle when servicing or loading/unloading the vehicle for a period not to exceed 8 hours."

PCC 16.30.225 C. states 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 16.20.120 H or I or 16.20.170."

Mr. Rasmussen testified that he parked his utility trailer ("The Trailer") in a location on the public right-of-way (under Mr. Rasmussen's apple tree) where one of his neighbor's had parked a VW van for a long time period. Mr. Rasmussen stated that he used a cable to attach The Trailer to a tree. Mr. Rasmussen stated that he was unaware that parking a utility trailer in the public street was, in any way, in violation of the law. Mr. Rasmussen stated that a number of utility trailers are parked on the street in close proximity to his residence. Mr. Rasmussen stated that he did not see any Tow Warning sticker attached to The Trailer. Mr. Rasmussen stated that a person at the "tow yard" did not see any Tow Warning sticker attached to The Trailer.

The Abandoned Auto Inspector who ordered The Trailer towed on or about April 6, 2011 submitted various documents. Exhibit 5 is a Tow Hearing Report form completed by the Abandoned Auto Inspector. Exhibit 7 contains two photographs of The Trailer. Exhibit 6 contains a copy of a Parking Violation. Exhibit 5 contains a narrative statement that says:

"The trailer was found where reported at 22 NE Everett on Wednesday the 30<sup>th</sup> of March at 8:40 am, the trailer was warned for prohibited trailer. I returned on the Wednesday the 6<sup>th</sup> of April to find the trailer still there and in violation of prohibited trailer. I did not receive any phone calls regarding this matter, also pictures were taken at that time."

The Hearings Officer also notes that the "date vehicle WARNED: 7/21/10 at 9:30 am."

The Hearings Officer finds that Mr. Rasmussen does not dispute that The Trailer was parked on the public right-of-way within the City of Portland for a period exceeding 8 hours. The Hearings Officer finds that Mr. Rasmussen's testimony was that he "did not see" the Tow Warning sticker and that the Tow Warning sticker was not on The Trailer at the "tow yard." The Hearings Officer finds Mr. Rasmussen's testimony to be credible.

The Hearings Officer finds that the Abandoned Auto Inspector observed The Trailer on the public right-of-way on March 30, 2011. The Hearings Officer finds that the Abandoned Auto Inspector stated that she attached, at 8:40 am, a Tow Warning sticker to The Trailer on March 30, 2011. The Hearings Officer finds that the Abandoned Auto Inspector observed The Trailer, in the same location on the public right-of-way, on April 6, 2011 at 8:26 am and the Tow Warning sticker had been removed but the wire that was used to attach the Tow Warning sticker remained on The Trailer. The Hearings Officer finds the statements made by the Abandoned Auto Inspector to be credible.

The Hearings Officer finds, based upon the evidence in the record, that The Trailer had been parked on the public right-of-way for a period extending at least from March 30, 2011 to April 6, 2011. The Hearings Officer finds parking a utility trailer on the public right-of-way for such an extended time is in violation of PCC 16.20.120 H. The Hearings Officer finds that a Tow Warning sticker was attached to The Trailer on March 30, 2011 and The Trailer was ordered towed on April 6, 2011; a period exceeding 72 hours. The Hearings Officer finds that the Abandoned Auto Inspector who ordered The Trailer towed on or about April 6, 2011 followed all relevant laws/rules. The Hearings Officer finds that the tow of The Trailer on or about April 6, 2011 is valid.

ORDER:

1. The tow of Mr. Rasmussen's utility trailer (The Trailer) from a location generally described as 2200 NE Everett, Portland, Oregon, on or about April 6, 2011 is valid; Mr. Rasmussen's appeal is denied.
2. All towing and storage charges against the vehicle shall remain the responsibility of the owner of The Trailer.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: April 20, 2011  
GJF:jeg

  
Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Abandoned Autos  
Tow Number: 6336

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Rasmussen, Steven N.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Abandoned Autos	Received
6	Parking Violation copy	Abandoned Autos	Received
7	Photos	Abandoned Autos	Received