

# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

1900 SW 4<sup>th</sup> Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: [www.portlandoregon.gov/auditor/hearings](http://www.portlandoregon.gov/auditor/hearings)



## HEARINGS OFFICER'S ORDER

### APPEAL OF ANDREW HEITHAUS

CASE NO. 1110049

DESCRIPTION OF VEHICLE: Nissan Pickup (OR 252EBW)

DATE OF HEARING: April 19, 2011

### APPEARANCES:

Mr. Andrew Heithaus, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Heithaus 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. Heithaus and the documents admitted into evidence (Exhibits 1 through and including 10).

### Summary of Evidence:

Mr. Heithaus submitted a handwritten Tow Hearing Request Form, Exhibit 1, for the Hearings Officer's consideration. Mr. Heithaus writes that he reported his vehicle stolen prior to the tow which occurred on April 9, 2011. Mr. Heithaus writes that he was told when he reported his vehicle stolen that he would be contacted if the vehicle was found, so he could pick it up and avoid having the vehicle towed. Mr. Heithaus writes that he was contacted by an officer at 4:00 a.m. on April 9, 2011, after his vehicle had already been towed. Mr. Heithaus appeared at the hearing and testified consistent with his written tow request form. Mr. Heithaus testified that he would have been available to pick up his vehicle, if he had been called.

The City submitted Exhibits 5 through, and including, 9 for the Hearings Officer's consideration. Exhibit 6 is page 1 of an Investigation report written by Officer Crooker indicating that Mr. Heithaus reported his vehicle stolen on January 10, 2011. Exhibit 7 is page 1 of an Investigation report written by Officer Espana indicating that Mr. Heithaus' vehicle was recovered on April 9, 2011 at approximately 2:30 a.m. from SE 128<sup>th</sup> and SE Steele.

### 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 16.30.210A5 provides that a vehicle may be towed and held at the expense of the owner from any public right-of-way when the

vehicle has been reported stolen. PCC 16.30.220F authorizes the tow of a vehicle to be without notice when a police officer reasonably believes the vehicle is stolen.

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

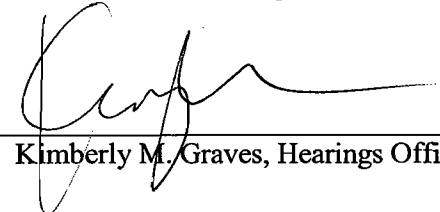
The Hearings Officer finds that on January 10, 2011, Mr. Heithaus reported his vehicle stolen to the Portland Police Bureau. The Hearings Officer finds that on April 9, 2011, Mr. Heithaus' vehicle was located on a public right-of-way. The Hearings Officer finds that Mr. Heithaus' vehicle was properly towed under PCC 16.30.210 and 16.30.220. The Hearings Officer finds the tow of Mr. Heithaus' vehicle to be 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 20, 2011  
KMG:jeg/rs

  
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Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police  
Tow Number: 6518

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Heithaus, Andrew	Received
2	Tow Desk printout	Heithaus, Andrew	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	Investigation Report, 1/10/11	Police Records	Received
7	Investigation Report, 4/9/11	Police Records	Received
8	Copy of returned mail	Police Records	Received
9	Property/Evidence Receipt	Police Records	Received
10	Opening Comments	Hearings Office	Received