



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Kelsey Barros

CASE NO. 1110045

DESCRIPTION OF VEHICLE: Hyundai Accent GL (OR XCH164)

DATE OF HEARING: April 19, 2011

APPEARANCES:

Kelsey Barros, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Kelsey Barros 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. Barros and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Ms. Barros submitted a hand-written request for a hearing, Exhibit 1, for the Hearings Officer's consideration. The request indicates that on March 29, 2011 Ms. Barros parked her vehicle on NW 14th between NW Flanders and NW Glisan. Ms. Barros indicates that she set her parking brake and left the vehicle in gear. Ms. Barros writes that when she returned her vehicle was gone. Ms. Barros writes that she believes her car "popped" out of gear and rolled due to a faulty emergency brake. Ms. Barros writes that she did not abandon her vehicle in an intersection. Ms. Barros appeared at the hearing and testified that her vehicle has been with her mechanic for over a week now having repairs done to the brake system. Ms. Barros indicated that she does not know where her vehicle was when the officer had it towed, but it could have rolled into the intersection.

The City submitted Exhibits 6 and 7 for the Hearings Officer's consideration. Exhibit 7 is an Investigation Report indicating that on March 29, 2011 at 3:38 p.m. a report was received that a vehicle has possibly rolled into an intersection. The vehicle was about 15 ft from the curb and about 18 ft from a fire hydrant. The front of the vehicle was protruding into the intersection. The vehicle was cited for being a hazard and towed.

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 16.30.210

provides that a vehicle may be towed from a public right-of-way when the vehicle is parked unlawfully or in a manner that may be hazardous to traffic. PCC 16.30.220 authorizes a tow without prior notice when a vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on March 29, 2011 Ms. Barros legally parked her vehicle on NW 14th, a public right-of-way. The Hearings Officer finds that after Ms. Barros left her vehicle, her vehicle proceeded to roll into an intersection causing a hazardous condition for vehicular traffic. The Hearings Officer finds that a vehicle may be towed without notice when the vehicle is a hazard and impeding the normal flow of traffic. The Hearings Officer finds the tow of Ms. Barros vehicle is valid.

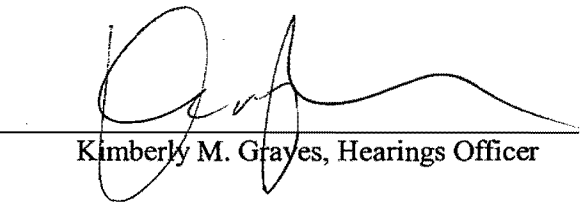
Order:

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 20, 2011

KMG: jeg


Kimberly M. Grayes, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 5793

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Barros, Kelsey	Received
2	Repair Itemization	Barros, Kelsey	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing notice	Hearings Office	Received
5	Notice of Rights and Procedures	Hearings Office	Received
6	Towed Vehicle Record	Police Records	Received
7	Investigation Report	Police Records	Received
8	Opening Comments	Hearings Office	Received