

# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF CARL AND BERNITA GOODMAN.

CASE NO. 1110065

DESCRIPTION OF VEHICLE: BMW 325 (OR PEN209)

DATE OF HEARING: May 26, 2011

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. and Ms. Goodman did not appear at the hearing or offer testimony on their 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 documents admitted into evidence (Exhibits 1 through and including 11).

### Summary of Evidence:

Mr. and Ms. Goodman submitted a written Tow Hearing Request Form, Exhibit 1, in which they state the reason they believe the tow of their vehicle is invalid. The form reads, "We were insured. The officer had no valid reason to stop the car but Racial Profiling." Mr. and Ms. Goodman did not provide any other information regarding the tow of their vehicle. Mr. and Ms. Goodman were mailed a tow hearing notice on May 17, 2011 providing them with the date and time for the tow hearing. The letter was not returned by the U.S. Postal Service. Neither Mr. nor Ms. Goodman contacted the Hearings Office prior to the hearing requesting to reschedule the hearing.

The City submitted Exhibits 6 through, and including, 11 for the Hearings Officer's consideration. Exhibit 6 is a Traffic Violation Tow Report which indicates that on May 7, 2011, Frederick Bolds was stopped on NE MLK Boulevard and NE Fremont Street for violating ORS 811.520 (Fail to Dim Headlights). The report further indicates that Mr. Bolds did not have proof of insurance which led the officer to believe that he was driving uninsured. In the narrative portion of the report the officer writes, "The driver stated that the vehicle belonged to his grandparents (listed above). The driver provided no proof of insurance and per DMV records the insurance expired in 2005."



**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 and the Oregon Revised Statutes ("ORS"). ORS 806.011 provides that;

*"an unexpired card issued as provided in ORS 742.447, or other current proof of compliance with financial or future responsibility requirements approved by rule by the Department of Transportation, shall be carried in each motor vehicle that is operating in this state . . . Failure of the driver of a motor vehicle to show a valid card or other proof of compliance when asked to do so by a police officer is reasonable grounds for the officer to believe that the person is operating the vehicle in violation of ORS 806.010."* (Emphasis added.)

ORS 806.010 indicates that a person commits the offense of driving uninsured if the person operates a motor vehicle without being insured under a motor vehicle liability insurance policy. PCC 16.30.220K1 authorizes an officer to tow a vehicle when the officer has probable cause to believe that the vehicle's operator has committed the offense of Driving Uninsured under ORS 806.010.

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

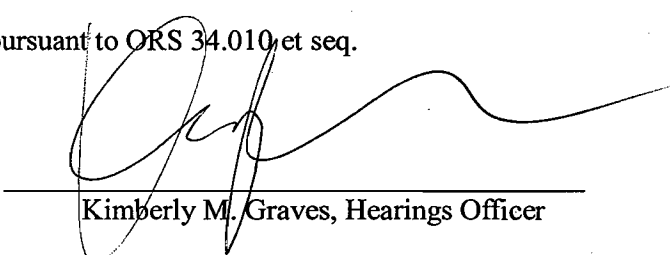
The Hearings Officer finds that on May 7, 2011, Mr. Bolds, while driving Mr. and Ms. Goodman's vehicle, was unable to provide proof of valid insurance when requested to do so by a police officer. The Hearings Officer finds that Mr. Bolds' failure to provide proof of insurance gave the officer probable cause to believe that Mr. Bolds had committed the crime of Driving Uninsured under ORS 806.010. The Hearings Officer finds that the tow of Mr. and Ms. Goodman's vehicle, being driven by Mr. Bolds, 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: May 27, 2011  
KMG:jeg/rs

  
Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police  
Tow Number: 8339

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Goodman, Carl and Bernita	Received
2	Notice of Towed Vehicle	Goodman, Carl and Bernita	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Statement of Rights and Procedures	Hearings Office	Received
6	Traffic Violation Tow Report	Police Records	Received
7	Notice of Tow	Police Records	Received
8	Towed Vehicle Record	Police Records	Received
9	OR Driver License for Bernita Kaye Goodman	Police Records	Received
10	American Family Insurance card copies	Police Records	Received
11	Vehicle Release	Police Records	Received