



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF JASON SIRI

CASE NO. 1110075

DESCRIPTION OF VEHICLE: Ford F350 (OR 075DRK)

DATE OF HEARING: June 3, 2011

APPEARANCES:

Mr. Jason Siri, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Siri 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. Siri and the documents admitted into the evidentiary record (Exhibits 1 through and including 10).

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules are found in the Portland City Code ("PCC") Title 16. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.20.120, 16.20.225 and 16.90.405. PCC 16.20.120 H restricts parking of trucks in residential areas to eight hours. PCC 16.90.225 states that a vehicle may be towed, 72-hours after a notice of tow warning is placed on the vehicle, if the vehicle is in violation of PCC 16.20.120 H. PCC 16.90.405 defines a "truck" to include a:

"motor vehicle designed, used or maintained primarily for the transportation of property, goods or providing a service, tow truck with passenger plates, step vans, vehicle length or width or height greater than original manufacturer's dimensions, and meeting the description as defined by DMV registration as a truck, van or pickup."

Mr. Siri testified that his vehicle does not have two or more rear axles. Mr. Siri testified that his vehicle is not used or maintained primarily for the transportation of property, goods or providing a service. Mr. Siri stated that he contacted a person at the Portland Bureau of Transportation and described his vehicle

and was told that if the vehicle did not have two or more rear axles and was not used primarily for transporting goods or providing a service, his vehicle would not be considered a truck and therefore was not subject to the eight hour parking restriction.

Mr. Siri stated that he purchased the vehicle from the Port of Portland and the vehicle still has a warning flasher light on the top of the cab and still has Port signage on its side. Mr. Siri stated that the Port installed an "after market dump body" on the vehicle. Mr. Siri stated that the "dump body" remains on the vehicle to this date. Mr. Siri stated that he was not contesting the validity of the tow on the grounds that notice was not given or was otherwise inadequate.

The Hearings Officer finds that Mr. Siri's testimony is credible.

The Hearings Officer referred Mr. Siri to Exhibit 10; three photographs. Mr. Siri stated that the photographs show his vehicle that is described in the preceding paragraphs. The Hearings Officer takes note of the Port signage/decal shown on the front side panel of the vehicle, the warning flasher light on the top of the cab, the "after market dump body," and "dual rear wheels."

The Inspector who ordered Mr. Siri's vehicle towed submitted documents into the record (Exhibits 7, 8, 9 and 10). The Inspector's narrative, on Exhibit 7, states (in part) that:

"the truck was found where reported in the 2600 bl NW Pettygrove on May 17<sup>th</sup> 2011 at 7:58 am. I affixed a 72 hour tow warning notice on the street side drivers window for Prohibited Truck. As it refers to the City code, its any truck that was manufactured for the purpose of delivering goods and or services. When I returned on May 31<sup>st</sup> the truck was there at that time I cited it for tow."

The Hearings Officer finds the narrative submitted by the Inspector, as quoted above, is credible.

The Hearings Officer finds that Mr. Siri's vehicle was clearly designed to be used to transport material. The Hearings Officer finds that the "after market dump body" was clearly designed to be used to accept, transport, and later dump materials. The Hearings Officer finds that the "after market dump body" varies the width (and probably the length) of the vehicle as compared to the manufacturer's original dimensions. The Hearings Officer finds, based upon the testimony of Mr. Siri, that his vehicle meets the PCC 16.90.405 definition of truck. The Hearings Officer finds that the Inspector who ordered the tow of Mr. Siri's vehicle followed the relevant laws/rules. The Hearings Officer finds that the tow of Mr. Siri's vehicle, on June 1, 2011 is valid.

#### ORDER AND DETERMINATION:

1. The tow of Mr. Siri's vehicle (Ford truck, Oregon License 075DRK) is valid; Mr. Siri's appeal is denied.
2. All towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.

3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: June 8, 2011

GJF:jeg/rs

  
Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Abandoned Autos

Tow Number: 9748

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request form	Siri, Jason	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Statement of Rights and Procedures	Hearings Office	Received
5	Tow Hearing - Request to Reschedule Form	Siri, Jason	Received
6	Hearing Notice	Hearings Office	Received
7	Tow Hearing Report	Abandoned Autos	Received
8	Detail for AUT2011-004976	Abandoned Autos	Received
9	Parking Violation #HA08946786	Abandoned Autos	Received
10	Photos	Abandoned Autos	Received