



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

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

web: www.portlandoregon.gov/auditor/hearings



HEARINGS OFFICER'S ORDER

APPEAL OF JOSHUA WONG

CASE NO. 1110072

DESCRIPTION OF VEHICLE: Suzuki Samurai (OR RXM930)

DATE OF HEARING: June 9, 2011

APPEARANCES:

Joshua Wong, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

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

Summary of Evidence:

Mr. Wong submitted a Tow Hearing Request Form, Exhibit 1 and 1a, for the Hearings Officer's consideration. Mr. Wong writes in Exhibit 1a that his vehicle was towed on May 16, 2011 from NE 17th. Mr. Wong writes that there is a building with two driveways located along 17th across from the building where he lives. Mr. Wong writes that he has lived across the street from this building for more than a year and has never seen any vehicle use either of the driveways day or night. Mr. Wong writes that at the time of the tow there were no signs prohibiting blocking the driveway. He writes that on several occasions he has witnessed other residents of his apartment complex park in front of the driveways without being towed. Mr. Wong writes that it was approximately 5 days after his vehicle was towed that the business had posted signs near the driveway prohibiting parking. Mr. Wong writes that he would have gladly moved his vehicle if he had received any warning prior to the tow. Mr. Wong appeared at the hearing and testified that his apartment complex has recently reduced the available parking spots for residents. Mr. Wong testified that, as a result, residents of his building park in front of the driveways located on NE 17th on a regular basis. Mr. Wong writes that he was parked in front of one of the driveways when his vehicle was towed. Mr. Wong submitted photos, Exhibit 9, which show the driveway his vehicle was parked in front of prior to towing. Mr. Wong also submitted Exhibit 10 which is a hand-written note stating "Don't block the driveway". Mr. Wong testified that he did not see this note prior to the tow of his vehicle, and that he only received the note when he picked up his vehicle from the tow lot.

The City submitted Exhibits 6 through, and including, 8 for the Hearings Officer's consideration. Exhibit 6 is a narrative report from the Officer of Transportation Parking Enforcement Division. The report reads "I was called

to this location on service request #754, a complaint by the driveway owner. I cited the vehicle and towed it due to the driveway being approx. halfway blocked + unusable." The report indicates that the tow of the vehicle occurred on May 16, 2011 at approximately 5:00 p.m. Exhibit 8 contains photos of Mr. Wong's vehicle prior to being towed. The photos in Exhibit 8 clearly indicate that Mr. Wong's vehicle was blocking a driveway prior to being 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. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.20.130 V., PCC 16.30.220B and PCC 16.90.105. PCC 16.20.130 V states that it is unlawful to park or stop a vehicle in front of any portion of a driveway ingress/egress to the public right-of-way. PCC 16.90.105 defines a "driveway" for the purposes of Title 16. In summary, PCC 16.90.105 defines a "driveway" as an access extending from a public right-of-way onto private or public lands for the purpose of gaining vehicular access to such areas and reasonably designated at the property line so as to be an obvious open for access. *Such road or access will be enforced as a driveway unless closed by a structure or permanent closure device.* For the purposes of enforcement a driveway extends from one curb return to the other and if winged, includes the wings. PCC 16.30.220 A permits a vehicle to be towed without prior notice and stored, at the owner's expense, if the vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic.

Findings of Fact and Conclusions of Law:

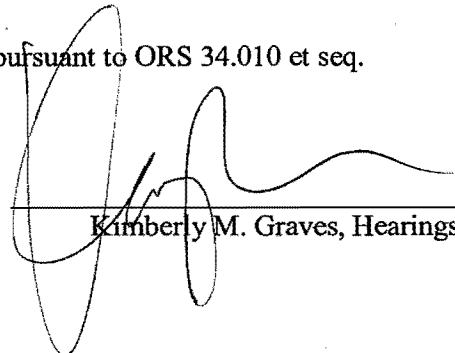
The Hearings Officer finds that on May 16, 2011 Mr. Wong's vehicle was parked on NE 17th Avenue; a public right-of-way. The Hearing Officer finds that Mr. Wong's vehicle was parked within a driveway, as defined in PCC 16.90.106. The Hearings Officer finds that Mr. Wong's vehicle blocked access to and from the driveway, thereby impeding the normal flow of vehicular traffic. The Hearings Officer finds the tow of Mr. Wong's 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: June 10, 2011
KMG:rs/jeg



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 8856

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Wong, Joshua	Received
1a	Tow Hearing Request letter	Wong, Joshua	Received
2	Tow Invoice	Wong, Joshua	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Statement of Rights and Procedures	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation #HA09282752	Parking Enforcement	Received
8	Color photo page	Parking Enforcement	Received
9	Photos	Wong, Joshua	Received
10	Note	Wong, Joshua	Received