



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 RICARDO BANUELOS

CASE NO. 1110078

DESCRIPTION OF VEHICLE: Toyota Tacoma (CA 6M89801)

DATE OF HEARING: June 16, 2011

APPEARANCES:

Ricardo Banuelos, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Banuelos 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. Banuelos and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Mr. Banuelos submitted a handwritten Tow Hearing Request Form and appeared at the hearing regarding the tow of his vehicle on May 28, 2011. Mr. Banuelos testified that he parked in the area of "Dante's" on May 28, 2011. Mr. Banuelos testified that the area where he parked is a loading zone which allows for parking after 7:00 p.m. Mr. Banuelos testified that he has parked in the same spot before and not had any problems. Mr. Banuelos testified that on this day the vehicle in front of him was "pushed back" two feet behind the "marker" and as a result his vehicle was "pushed back" two feet behind the back "marker." Upon questioning, Mr. Banuelos clarified that the front vehicle was parked outside of the lines and as a result he parked his vehicle further back than the lines marking the space. Mr. Banuelos testified that there is a fire hydrant in the area and that the hydrant was next to his rear tire. Mr. Banuelos testified that he believed that the area he was parking in was a marked parking space.

The City submitted exhibits 6 through, and including, 8 for the Hearings Officer's consideration. Exhibit 7 is a narrative report written by Officer Wells which indicates that he was dispatched on May 28, 2011 to 3rd and Burnside for a vehicle blocking a fire hydrant. Officer Wells writes, "We arrived and found the listed truck parked facing south on the west side of 3rd just south of Burnside. The rear of the truck was next to the yellow curb and clearly blocking the hydrant there." Exhibit 8 is a black and white photocopy of a photo which appears to show a fire hydrant next to the rear wheel of a pickup truck.

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 16.20.130C provides that it is unlawful to park or stop a vehicle within 10 feet of any fire hydrant, even when not marked by traffic control devices. PCC 16.30.210A9 provides that a vehicle may be towed and held at the expense of the owner or person entitled to possession thereof from any public right-of-way when the vehicle is parked in violation of any parking regulation. PCC 16.30.220E permits any authorized officer to tow a vehicle, without prior notice, when the vehicle is illegally parked within 10 feet of a fire hydrant.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on May 28, 2011, Mr. Banuelos parked his vehicle on SW 3rd; a public right-of-way. The Hearings Officer finds that Mr. Banuelos' vehicle was parked such that the rear tire of the vehicle was directly adjacent to a fire hydrant. The Hearings Officer finds the tow of Mr. Banuelos' vehicle to be valid.

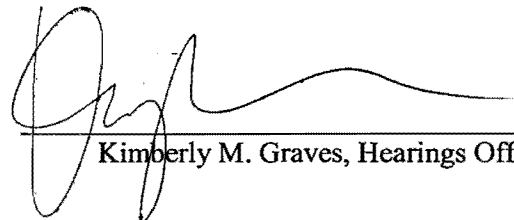
Order:

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: June 17, 2011

KMG: jeg


Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 9548

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Banuelos, Ricardo	Received
2	Tow Desk printout	Hearings Office	Received
3	Tow Hearing Request Form	Banuelos, Ricardo	Received
4	Hearing Notice	Hearings Office	Received
5	Statement of Rights and Procedures	Hearings Office	Received
6	Towed Vehicle Record	Police Records	Received
7	Investigation Report	Police Records	Received
8	Photos	Police Records	Received