



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF ISAAC JAMES

CASE NO. 1110069

DESCRIPTION OF VEHICLE: Mercedes Benz S-500 (VIN: WDBGA51E4SA242126)

DATE OF HEARING: June 16, 2011

APPEARANCES:

Isaac James, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

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

Summary of Evidence:

Mr. James submitted a handwritten letter, Exhibit 1, and a Tow Hearing Request Form, Exhibit 4, in which he writes that his vehicle was towed on May 19, 2011 from NE 20th and Sumner. Mr. James writes that there was no prior warning given before the tow and that the vehicle was not blocking the flow of traffic. Mr. James writes that his truck and Mercedes were taken away on two different tow trucks and that "they should have leave (sic) it alone after they got it out from the tow truck." Mr. James appeared at the hearing and stated that he is only concerned about the Mercedes being towed. Mr. James testified that the Mercedes was not blocking traffic and that if it was blocking traffic because of the tow company moving it, they should have moved it back to a safe location instead of towing it.

The City submitted Exhibits 7 through, and including, 10 for the Hearings Officer's consideration. Exhibit 8 is an Investigation Report written by Officer Simon. The report indicates that on May 19, 2011 Officer Simon responded to NE 20th and NE Sumner on report of a "hit and run." Officer Simon writes that the victim told him that a "green/white homemade tow truck" hit her moped while it was parked. The green/white tow truck was parked around the corner from the victim's house. Officer Simon writes that the green/white tow truck had a Mercedes hooked up to the back of it. Officer Simon writes that he ordered a tow for the green/white tow truck. Officer Simon writes that the tow truck driver "had to separate the vehicles since it was hooked together in an unsafe manner. During that process the Mercedes was left in the middle of NE Sumner blocking traffic. There were not keys available and the doors were locked. It could not be moved to a safe location out of traffic." Officer Simon indicates that he had the Mercedes towed for being a hazard. Later in the investigation report,

Officer Simon writes, "the vehicle was left as a hazard by the tow driver that I ordered for the green/white tow 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. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.20.120 Q, PCC 16.30.210 A.2 and PCC 16.30.220 A. PCC 16.20.120 Q states that it is unlawful to park or stop a vehicle in a manner that creates a traffic hazard impeding the safe movement of vehicular or pedestrian traffic. PCC 16.30.210 A.2 states that a vehicle may be towed and held at the expense of the owner or person entitled to possession thereof if the vehicle is in the public right-of-way and the vehicle is parked/stopped unlawfully in a manner that may be hazardous to traffic. PCC 16.30.220 A authorizes a police officer to order a vehicle towed, without prior notice, if the vehicle is impeding or likely to impede the normal flow of vehicular traffic.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on May 19, 2011 Mr. James Mercedes was parked on NE Sumner in a manner which was impeding the safe movement of vehicular traffic. The Hearings Officer finds that Mr. James' Mercedes became a hazard primarily as a result of the actions of the tow truck driver who was towing Mr. James' green/white tow truck. Nonetheless, the Hearings Officer finds that Mr. James' Mercedes created a hazardous situation for traffic on NE Sumner and the police officer was following the relevant rules in the PCC when he ordered the vehicle towed. The Hearings Officer finds the tow of Mr. James' Mercedes to be valid.

Order:

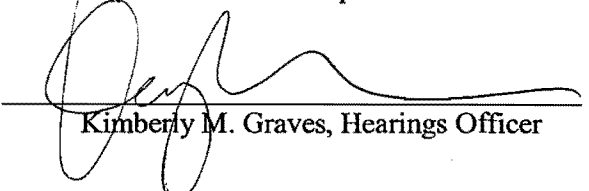
Therefore, it is ordered that all towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.

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

Dated: June 17, 2011

KMG: jeg

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: PPB
Tow Number: 9030

Exhibit #	Description	Submitted by	Disposition
1	Letter dated May 23, 2011	James, Isaac	Received
2	Receipt copies	James, Isaac	Received
3	Tow Desk printout	Hearings Office	Received
4	Tow Hearing Request Form	James, Isaac	Received
5	Tow Hearing Notice	Hearings Office	Received
6	Statement of Rights and Procedures	Hearings Office	Received
7	Towed Vehicle Record	Police Records	Received
8	Investigation Report	Police Records	Received
9	Oregon Police Traffic Crash Report	Police Records	Received
9a	Special Report	Police Records	Received
10	Special Report	Police Records	Received