



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF SCOTT AUGUSTINE

CASE NO. 1120082

DESCRIPTION OF VEHICLE: Ford Crown Victoria (OR 703DXR)

DATE OF HEARING: May 24, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Scott Augustine did not appear at the hearing or offer any testimony 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 documents admitted into evidence (Exhibits 1 through and including 13).

Summary of Evidence:

Mr. Augustine submitted a hand-written note, Exhibit 1, regarding the tow of his vehicle. Included with the hand-written note was a copy of a tow invoice, Exhibit 2, a copy of two parking citations, Exhibit 3, and three photos, Exhibit 4. At a later date, Mr. Augustine submitted a Tow Hearing Request Form, Exhibit 6, indicating that his vehicle was towed on April 17, 2012. In the Tow Hearing Request Form, Mr. Augustine writes:

"2 citations w/in 24 hours, driveway was accessible but home owner complained twice (see previous letter)"

The City submitted Exhibits 9 through, and including, 13 for the Hearings Officer's consideration. Exhibit 9 is a Tow Hearing Report which indicates that Mr. Augustine's vehicle was towed on April 17, 2012, for the violation of "blocked driveway." The narrative portion of the report indicates that the a service request call was received on April 17, 2012 for a blocked driveway. The parking enforcement officer indicates in the report that there was already a citation on the vehicle from April 16, 2012, when the officer arrived on April 17, 2012. The report indicates that on April 17, 2012, the vehicle was parked approximately 4 feet into the driveway, and appears as though it was in the same location on April 16, 2012, when it was cited. Exhibits 10 and 12 are copies of the parking citations issued to Mr. Augustine on April 16, 2012 and April 17, 2012. Exhibits 11 and 13 contain photos of Mr. Augustine's vehicle from both days. Mr. Augustine's vehicle appears to be in the same location in

each photo. The photos show Mr. Augustine’s vehicle parked at least 4 feet into the apron of the driveway with approximately 1 foot of the vehicle crossing into the main driveway area

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. 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, when the vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic.

Findings of Fact and Conclusions of Law:

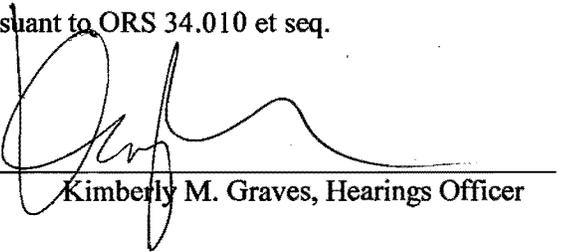
The Hearings Officer finds that on April 17, 2012, Mr. Augustine’s vehicle was parked next to a driveway in a manner which restricted the driveway owner’s access to the full span of the driveway. The Hearings Officer finds that a driveway owner has a right to full access of their driveway, and the placement of Mr. Augustine’s vehicle impeded the flow of vehicular traffic into and out of the driveway. The Hearings Officer finds the tow of Mr. Augustine’s 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: May 25, 2012
KMG:c1/c2



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 6416

| Exhibit # | Description | Submitted by | Disposition |
|-----------|---------------------------------|------------------|-------------|
| 1 | Letter | Augustine, Scott | Received |
| 2 | Tow Invoice | Augustine, Scott | Received |
| 3 | Parking Violations | Augustine, Scott | Received |
| 4 | Photos | Augustine, Scott | Received |
| 5 | Tow Desk printout | Hearings Office | Received |
| 6 | Tow Hearing Request Form | Augustine, Scott | Received |
| 7 | Hearing Notice | Hearings Office | Received |
| 8 | Notice of Rights and Procedures | Hearings Office | Received |

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|----|--------------------|---------------------|----------|
| 9 | Tow Hearing Report | Parking Enforcement | Received |
| 10 | Parking Violation | Parking Enforcement | Received |
| 11 | Photos | Parking Enforcement | Received |
| 12 | Parking Violation | Parking Enforcement | Received |
| 13 | Photos | Parking Enforcement | Received |