



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 LINDSEY DAVIS

CASE NO. 1120117

DESCRIPTION OF VEHICLE: Volvo V70 (OR 368FPE)

DATE OF HEARING: July 3, 2012

APPEARANCES:

None

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Ms. Lindsey Davis ("Davis") submitted a request for a tow appeal hearing (Exhibit 1). Davis provided a mailing address in Exhibit 1. A Notice of Hearing (Exhibit 3) was mailed on June 29, 2012 to the address provided by Ms. Davis. Portland Policy Document ADM-9.03, Towing Hearings Officer Rules and Regulations provide, that "written notification of the time and place of hearing need not be provided. The time and place of hearing will be set at the time the Request for Hearing is filed, and it is the responsibility of the person or persons requesting the hearing to make timely inquiry, in person or by telephone, to determine the time and place set for hearing" (ADM - 9.03 Rule 2-3).

The Hearings Officer notes that Ms. Davis, on Exhibit 1, indicated that her vehicle remained in storage. Portland City Code ("PCC") requires that the Hearings Office schedule a hearing for an in storage vehicle within 72 hours of the date/time the appeal request is received by the Hearings Office. The Hearings Office scheduled, as set forth in the Notice of Hearing, a hearing date/time of July 3, 2012 at 1:15 p.m. Ms. Davis did not contact the Hearings Office to request the hearing date/time be rescheduled. Ms. Davis failed to appear at the hearing. The Hearings Officer makes this decision based upon the documents admitted into the evidentiary record (Exhibits 1 through and including 6).

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 16.30.210 A.1, PCC 16.30.210 D, and PCC 16.30.220 B. PCC 16.30.210 A.1 authorizes a Parking Enforcement Officer to order a vehicle towed and stored, at the owner's expense, if the vehicle is parked in any public right-of-way and the vehicle is parked in violation of any temporary or permanent parking restriction. PCC 16.30.210 D states that

temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.220 B permits a Parking Enforcement Officer to order a vehicle towed, without prior notice if the vehicle is illegally parked in a posted restricted space/zone. PCC 16.20.860 A states, in relevant part, that "an area parking permit does not allow parking in restricted parking zones (16.20.200)."

Davis, in Exhibit 1, states that the reason she believed the tow of her vehicle on June 24, 2012 is not valid is:

"My car currently has an 'A' zone parking permit. It was left parked in a Zone A parking zone and was towed while I was out of town."

A City of Portland Police Officer ordered the Davis vehicle towed on June 24, 2012. The Police Officer submitted a written report that includes the following from the narrative section (Exhibit 5):

"On June 24th, 2012 around 10:23 am I responded to a reported parking problem on SW Morrison between SW 18th and SW 20th. Upon my arrival I found a 1999 Volvo bearing Oregon reg 368 FPE parked in a bagged temporary no parking zone. The no parking restriction was from 10:00 am to 5:00 pm on Sunday June 24, 2012. The vehicle was ticketed, see cite # U251090. A check of PPDS for a contact number of the registered owner was negative. At the request of Scott Kiouss was towed as it was blocking work crews."

The Hearings Officer finds, based upon the Police Officer's above-quoted statement, that the Davis vehicle was parked in an area where signage (bag signs) restricted parking for a temporary period of time. The Hearings Officer finds that temporary no parking signs do create a restricted parking zone during on the date(s)/time(s) listed on the signs. The Hearings Officer finds that an area parking permit holder, such as Davis having a Zone A area parking permit, is not permitted to park in specific restricted areas within Zone A. The Hearings Officer finds that the Davis vehicle, on June 24, 2012, was parked in a temporary no parking area; a restricted parking zone. The Hearings Officer finds that the Police Officer who ordered the Davis vehicle towed on June 24, 2012 followed the relevant laws/rules. The Hearings Officer finds the tow of the Davis vehicle on June 24, 2012 is valid.

ORDER:

1. The City of Portland ordered tow of the Davis vehicle (1999 Volvo – Oregon 368 FPE) on June 24, 2012 is valid; the Davis tow 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: July 5, 2012

GJF:c1

Enclosure


Gregory J. Frank, Hearings Officer

Bureau: Police
Tow Number: 10027

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Davis, Lindsey	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	PPB Investigation Report: 12-054525	Police Records	Received
6	Towed Vehicle Record	Police Records	Received