



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF CARLOTTA ALVARADO

CASE NO. 1120121

DESCRIPTION OF VEHICLE: Ford Focus (OR XPE862)

DATE OF HEARING: July 10, 2012

APPEARANCES:

Ms. Carlotta Alvarado, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Alvarado appeared at the hearing and testified on her 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 Ms. Alvarado and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Ms. Alvarado submitted a Tow Hearing Request Form, exhibit 1, regarding the tow of her vehicle on June 19, 2012. In Exhibit 1, Ms. Alvarado writes "was not 4 feet into the driveway." Ms. Alvarado appeared at the hearing and indicated that she did not know where the Parking Enforcement Officer was measuring from when he wrote that she was four feet into the driveway, but that she did not believe that she was that far into the driveway. Ms. Alvarado indicated that she may have been into the driveway 1-2 feet. Ms. Alvarado indicated that the space where she parked is between two driveways and that it is a very small space. Ms. Alvarado testified that there are bushes growing next to the sloping portion of the driveway, and that the edge of the driveway isn't usable due to the bushes. Ms. Alvarado testified that the homeowner could have accessed their driveway even with her vehicle parked 1-2 feet into the edge of the driveway.

The City submitted Exhibits 5 through, and including, 7 regarding the tow of Ms. Alvarado's vehicle. Exhibit 5 is a Tow Hearing Report indicating that Ms. Alvarado's vehicle was towed on June 19, 2012 from NE Knott for the violation of "driveway." The narrative portion of the report reads, "I was called to this address on SR #846 as a cite and tow. I arrived to find this vhl parked with the rear into the wing of the driveway. I used my tape measure. The vhl was 4 feet into DW from wing." Exhibit 6 is a copy of the citation issued to Ms. Alvarado indicating that her vehicle was blocking a driveway. Exhibit 7 contains four photos of Ms. Alvarado's vehicle

taken prior to towing. The photos show Ms. Alvarado’s vehicle and a tape measure on the ground. The photos appear to show the rear of Ms. Alvarado’s vehicle parked next to the wing of the driveway and partially into the center portion of the driveway.

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:

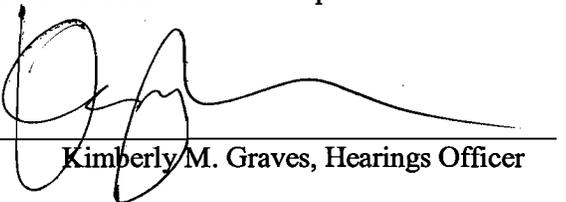
The Hearings Officer finds that on June 19, 2012, Ms. Alvarado parked her vehicle in front of a driveway in a manner which impeded the flow of vehicular traffic into and out of the driveway. The Hearings Officer finds that the driveway owner has a right to access their entire driveway, and that calling Parking Enforcement indicates that the owner felt impeded by the location of Ms. Alvarado’s vehicle. The Hearings Officer finds the tow of Ms. Alvarado’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: July 13, 2012
KMG:c1



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 9731

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Alvarado, Carlotta	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation #HA09704908	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Photos	Alvarado, Carlotta	Received