

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Dean DeSantis

CASE NO. 1120118

DESCRIPTION OF VEHICLE: Toyota Prius (OR 102CZY)

DATE OF HEARING: July 17, 2012

APPEARANCES:

Mr. Dean DeSantis, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

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

Summary of Evidence:

Mr. DeSantis submitted a Tow Hearing Request Form, Exhibit 4, and a type-written letter, Exhibit 1, regarding the tow of his vehicle on June 18, 2012. Mr. DeSantis writes in his letter that the signs in the area where he parked are "confusing" and seems "only to serve to 'catch' unwitting drivers." Mr. DeSantis appeared at the hearing and stated that he is not contesting the validity of the tow, but instead wanted to point out how confusing the signage is in the area. Mr. DeSantis testified that he appeared because he wanted to see the signage changed.

The City submitted Exhibits 8 through, and including, 10 regarding the tow of Mr. DeSantis' vehicle. Exhibit 8 is a Tow Hearing Report indicating that the vehicle was towed on June 18, 2012, from the 1200 block of SE Division for the violation of Prohibited Time. The narrative portion of the report reads, "Per policy, the vehicle was cited and towed. This is to keep the eastbound traffic flowing during rush hour." Exhibit 9 is a copy of the citation issued to Mr. DeSantis for the violation of "prohibited time." Exhibit 10 contains 3 photos related to the tow of Mr. DeSantis' vehicle and shows Mr. DeSantis' vehicle parked between 2 No Parking between 4-6 pm signs.

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. 16.30.210A1 provides that a vehicle may be towed and held at the expense of the owner from any public right-of-way when the vehicle is parked in violation of a permanent parking restriction. PCC 16.30.220B permits any authorized officer to tow a vehicle without prior notice when the vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane.

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on June 18, 2012, at approximately 5:00 p.m., Mr. DeSantis' vehicle was parked on SE Division Street in an area which had a permanent parking restriction prohibiting parking between 4:00 p.m. and 6:00 p.m. The Hearings Officer finds that the zone was conspicuously posted with at least two signs on the block face. The Hearings Officer finds the tow of Mr. DeSantis' vehicle to be valid.

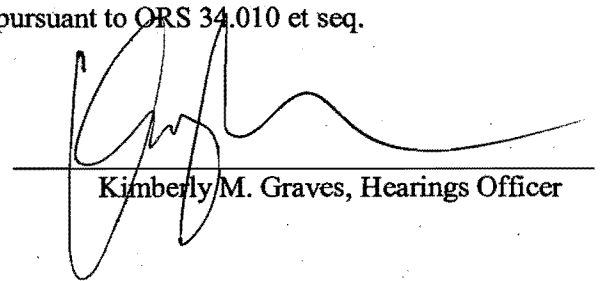
Order:

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: July 24, 2012
KMG:c2

Enclosure


Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 9689

Exhibit #	Description	Submitted by	Disposition
1	6/21/12 letter	DeSantis, Dean	Received
2	Parking Violation and partial receipts	DeSantis, Dean	Received
3	Tow Desk printout	Hearings Office	Received
4	Tow Hearing Request Form	DeSantis, Dean	Received
5	6/21/12 letter	DeSantis, Dean	Received
6	Notice of Hearing	Hearings Office	Received
7	Notice of Rights and Procedures	Hearings Office	Received
8	Tow Hearing Report	Parking Enforcement	Received
9	Parking Violation	Parking Enforcement	Received
10	Photos	Parking Enforcement	Received