



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 Steve Anthony Nagy

CASE NO. 1120183

DESCRIPTION OF VEHICLE: Ducati Motorcycle (OR M510330)

DATE OF HEARING: October 11, 2012

APPEARANCES:

Attorney Richard Erik Oberdorfer, on behalf of Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Nagy did not appear at the hearing. Mr. Richard Oberdorfer, attorney for Mr. Nagy, appeared on behalf of his client. 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 24).

Summary of Evidence:

Mr. Nagy submitted a Tow Hearing Request Form, Exhibits 1 and 2, regarding the tow of his vehicle on September 30, 2012. In Exhibit 1, Mr. Nagy indicates that the reasons for why he believes the tow of his vehicle is invalid are, "All; also asking for review per *Miranda v. City of Cornelius*." Mr. Nagy did not provide any other information about the tow of his vehicle. At the hearing, Mr. Oberdorfer indicated that he would like to have the tow reviewed by the Hearings Officer to determine whether the tow of the vehicle is valid. Mr. Oberdorfer indicated that he did not wish to argue that the case of *Miranda v. City of Cornelius* had bearing on this matter.

The city submitted Exhibits 6 through, and including, 24 regarding the tow of Mr. Nagy's vehicle. The majority of the documents submitted by the city relate to events preceding or following the tow of Mr. Nagy's vehicle, and are unrelated to the basis for the tow of the vehicle. The Hearings Officer considers the information contained in the following Exhibits when making this decision, Exhibits 6, 7, and 10. Exhibit 6 is a Towed Vehicle Record showing that the vehicle was towed on September 30, 2012 from SE 33rd and SE Division. The Record indicates that the vehicle was towed as "evid" or evidence. Exhibit 7 is a Traffic Crash Report which indicates that Mr. Nagy was the subject of a traffic pursuit prior to crashing his motorcycle into another vehicle. Exhibit 7 further indicates that Mr. Nagy was transported to the hospital for injuries sustained in the collision, and was investigated

for driving under the influence of intoxicants. Exhibit 10 is a Special Report from the Portland Police Bureau which indicates that the vehicle was found" laying (sic) on its side on the south sidewalk".

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. PCC 16.30.210A6 permits a vehicle to be towed if the vehicle or its contents is to be used as evidence in traffic or criminal prosecutions. PCC 16.30.220G permits any police officer to tow a vehicle, without prior notice, when the officer reasonably believes that the vehicle or its contents constitute evidence of any offense, if such towing is reasonably necessary to obtain or preserve such evidence.

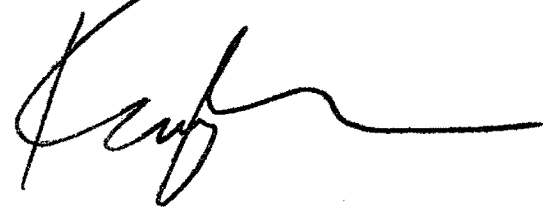
Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on September 30, 2012 Mr. Nagy was involved in a traffic collision while driving his motorcycle. The Hearings Officer finds that the reports submitted by the city, taken collective, indicate that Mr. Nagy was the subject of a criminal and/or traffic investigation due to his conduct while driving his motorcycle. The Hearings Officer finds that any officer involved in the investigation would have reasonable grounds to believe that Mr. Nagy's motorcycle contained evidence related to the criminal/traffic investigation. The Hearings Officer finds that the tow of Mr. Nagy's vehicle was permitted under the Portland City Code. The Hearings Officer finds the tow of Mr. Nagy'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.



Kimberly M. Graves, Hearings Officer

Dated: October 12, 2012
KMG:c2/m2

Enclosure

Bureau: PPB
Tow Number: 15083

| Exhibit # | Description | Submitted by | Disposition |
|-----------|------------------------------------|---------------------|-------------|
| 1 | Tow Hearing Request form | Nagy, Steve Anthony | Received |
| 2 | Tow Hearing Request Form | Nagy, Steve Anthony | Received |
| 3 | Tow desk printout | Hearings Office | Received |
| 4 | Notice of Hearing | Hearings Office | Received |
| 5 | Notice of Rights and Procedures | Hearings Office | Received |
| 6 | Towed Vehicle Record | Police Records | Received |
| 7 | Oregon Police Traffic Crash Report | Police Records | Received |
| 8 | PPB Special Report | Police Records | Received |

| | | | |
|----|---|------------------|----------|
| 9 | PPB Special Report | Police Records | Received |
| 10 | PPB Special Reports | Police records | Received |
| 11 | PPB Special Report | Police Records | Received |
| 12 | Forensic Evidence Division Special Report | Police Records | Received |
| 13 | Special Report | Police Records | Received |
| 14 | Special Report | Police Records | Received |
| 15 | Special Report | Police Records | Received |
| 16 | Special Report | Police Records | Received |
| 17 | Special Report | Police Records | Received |
| 18 | Diagram | Police Records | Received |
| 19 | Forensic Services Request | Police Records | Received |
| 20 | Property / Evidence Receipt | Police Records | Received |
| 21 | Property / Evidence Receipt | Police / Records | Received |
| 22 | Property / Evidence Receipt | Police Records | Received |
| 23 | Property / Evidence Receipt | Police Records | Received |
| 24 | Property / Evidence Receipt | Police Records | Received |