



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF PHILIP DYE

CASE NO. 1120144

DESCRIPTION OF VEHICLE: Acura TSX (OR 293FDQ)

DATE OF HEARING: August 21, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Dye did not appear at the hearing or testify on his own behalf. A Notice of Hearing was mailed to Mr. Dye at the address he provided on his Tow Hearing Request Form, Exhibit 1, on August 10, 2012. On August 13, 2012, the Notice was returned by the U.S. Postal Service. 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 8).

Summary of Evidence:

Mr. Dye submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on August 2, 2012, from NW Davis and NW 21st. Mr. Dye attached a type-written letter, Exhibit 1a, to the form detailing why he believes the tow of his vehicle was "unjustified." Mr. Dye writes in Exhibit 1a that he parked his vehicle on August 2, 2012 at approximately 12:15 p.m. Mr. Dye writes that he did not see any "signs" in the area where he parked. Mr. Dye writes that the "no parking" sign was so high that he and his wife could not see it. Mr. Dye writes that the sign is 10 feet off of the ground, while other signs in the area are between 3-6 feet high. Mr. Dye writes that tree branches obscured the sign and there was nothing painted on the curb to indicate that the area was a no parking zone. Finally, Mr. Dye writes that the other sign for the area was "at least a half a block up the street." Mr. Dye submitted a number of photos, Exhibit 2, showing the signage near his vehicle, and other signs which he believes are more readily visible.

The city submitted Exhibits 6 through, and including, 8 regarding the tow of Mr. Dye's vehicle. Exhibit 6 is a Tow Hearing Report indicating that the vehicle was towed on August 2, 2012, from the south side of NW Davis St between NW King and NW 21st Ave. The narrative portion of the report reads that there are no branches blocking the "sign" and that there are two signs for "this zone." The report indicates that the zone is behind

"Walgreens" and that they need the area for deliveries. Exhibit 7 is a copy of the citation issued to Mr. Dye on August 2, 2012. The citation contains a notation indicating that the vehicle is a passenger vehicle and does not have any permit indicating that it is allowed to be in a truck loading zone. Exhibit 8 contains 4 photos taken at the time of the tow. The photos show Mr. Dye's vehicle parked next to a truck loading zone sign which is attached to a telephone/light post. The sign indicates that parking is restricted between "7am-6pm Mon-Sat." The photos show another truck loading zone sign approximately 2 car lengths behind Mr. Dye's vehicle.

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 16.20.220B provides that only the following vehicles, while being actively loaded or unloaded, may park in a truck loading zone for no more than 30 minutes: 1. A truck ; 2. A vehicle defined by its DMV registration as a truck, van, or pick-up that exhibits the commercial nature of the vehicle; 3. A passenger or other vehicle with an official commercial loading permit; 4. Any vehicle with Farm Vehicle registration plates; 5. Taxicabs. PCC 16.30.210A1 permits a vehicle to be towed if it is parked in violation of a temporary or permanent parking restriction. 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 August 2, 2012, Mr. Dye parked his vehicle at approximately 12:15 p.m. in a zone which is reserved during that time for truck loading. The Hearings Officer finds that Mr. Dye's vehicle is a passenger vehicle and that it is not allowed to parking in a truck loading zone. The Hearings Officer finds that the location of Mr. Dye's vehicle impeded the normal flow of traffic into and out of the zone. The Hearings Officer finds that Mr. Dye's vehicle was parked in violation of a permanent parking restriction, and the tow of Mr. Dye's vehicle is valid.

Order:

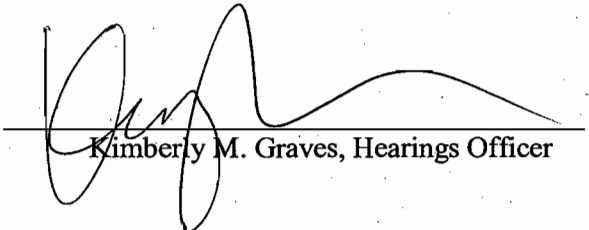
Therefore, it is ordered that all towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: August 23, 2012

KMG:c1/c2

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 11972

Exhibit #	Description	Submitted by	Disposition
<u>1</u>	<u>Tow Hearing Request Form</u>	<u>Dye, Philip</u>	<u>Received</u>
<u>1a</u>	<u>Letter</u>	<u>Dye, Philip</u>	<u>Received</u>
<u>2</u>	<u>Photos</u>	<u>Dye, Philip</u>	<u>Received</u>
<u>3</u>	<u>Tow Desk printout</u>	<u>Hearings Office</u>	<u>Received</u>
<u>4</u>	<u>Hearing Notice</u>	<u>Hearings Office</u>	<u>Received</u>
<u>5</u>	<u>Notice of Rights and Procedures</u>	<u>Hearings Office</u>	<u>Received</u>
<u>6</u>	<u>Tow Hearing Report</u>	<u>Dye, Philip</u>	<u>Received</u>
<u>7</u>	<u>Parking Violation #HA09129088</u>	<u>Parking Enforcement</u>	<u>Received</u>
<u>8</u>	<u>Photos</u>	<u>Parking Enforcement</u>	<u>Received</u>