



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 ROSCOE IGGULDEN

CASE NO. 1120163

DESCRIPTION OF VEHICLE: Honda Civic (WA ACW0281)

DATE OF HEARING: September 25, 2012

APPEARANCES:

Roscoe Iggulden, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Iggulden 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. Iggulden and the documents admitted into evidence (Exhibits 1 through and including 9).

Summary of Evidence:

Mr. Iggulden submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on September 9, 2012. Mr. Iggulden writes "all parking was filled and on Saturday evening officers had coned off the road side and allowed people to park there. Come Sunday all the vehicles were towed." Mr. Iggulden indicates that he believes that the officers on Saturday forgot to communicate with the officers present on Sunday. Mr. Iggulden stated at the hearing that officers were present and directing vehicles to park on N. Marine Drive when he parked his car. Mr. Iggulden testified that he parked his vehicle on September 9, 2012 on N. Marine Drive and that it was towed when he returned.

The City submitted Exhibits 5 through, and including, 9 for the Hearings Officer's consideration. Exhibit 5 is a Towed Vehicle Record which shows that Mr. Iggulden's vehicle was towed because it was a hazard. Exhibit 7 is an Investigation Report from the Portland Police Bureau written by Officer McGuffey. The narrative report on page 2 reads "VEH towed as a hazard. For narrative see Ofc Winter's report CN 12-79126." Exhibits 6, 8, and 9 relate to the release of the vehicle, and are unrelated to the basis for the tow. The City did not submit a report from "Ofc Winter".

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 16.20.120 Q, PCC 16.30.210 A.2 and PCC 16.30.220 A and D. PCC 16.20.120 Q states that it is unlawful to park or stop a vehicle in a manner that creates a traffic hazard impeding the safe movement of vehicular or pedestrian traffic. PCC 16.30.210 A.2 states that a vehicle may be towed and held at the expense of the owner or person entitled to possession thereof if the vehicle is in the public right-of-way and the vehicle is parked/stopped unlawfully in a manner that may be hazardous to traffic. PCC 16.30.220 A authorizes a police officer to order a vehicle towed, without prior notice, if the vehicle is impeding or likely to impede the normal flow of vehicular traffic. PCC 16.30.220 D permits a police officer to order a vehicle towed, without prior notice, if the vehicle poses an immediate danger to public safety.

Findings of Fact and Conclusions of Law:

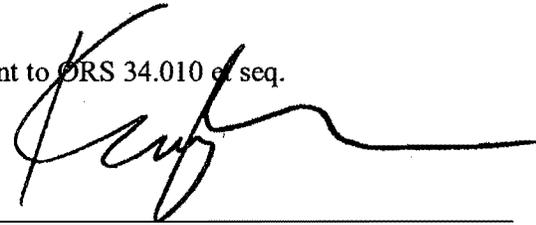
The Hearings Officer notes that the burden lies with the City to provide sufficient evidence to prove that the tow of Mr. Iggulden’s vehicle was valid. The Hearings Officer finds that the City did not submit a narrative report which contained sufficient information to establish a lawful basis for the tow of Mr. Iggulden’s vehicle. The Hearings Officer finds that the tow of Mr. Iggulden’s vehicle on September 9, 2012 is not valid.

Order:

Therefore, the Hearings Officer finds that the owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

In order for the appellant to receive reimbursement, a complete and legible copy of the towing and storage bill must be furnished to the Hearings Office by October 25, 2012.

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



Kimberly M. Graves, Hearings Officer

Dated: September 27, 2012
KMG:c1/ml

Enclosure

Bureau: Police
Tow Number: 13944

If a refund has been authorized, it will be sent from the City’s Accounts Payable Office. Please allow at least 3 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Iggulden, Roscoe	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	Police printout	Police Records	Received
7	Investigation Report	Police Records	Received
8	Driver License	Police Records	Received
9	Vehicle Release	Police Records	Received