



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

### APPEAL OF SCOTT OLBERDING

CASE NO. 1120150

DESCRIPTION OF VEHICLE: Jeep Cherokee (MN SHR956)

DATE OF HEARING: August 30, 2012

### APPEARANCES:

Mr. Scott Olberding, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Scott Olberding, Appellant, appeared at the August 30, 2012 hearing and testified on his own behalf. No person appeared at the hearing to testify on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Mr. Olberding and the documents admitted into the evidentiary record (Exhibits 1 through and including 8).

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules are 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 16.30.210 A.1, PCC 16.30.210 D, and PCC 16.30.220 B. PCC 16.30.210 A.1 authorizes a Parking Enforcement Officer to order a vehicle towed and stored, at the owner's expense, if the vehicle is parked in any public right-of-way and the vehicle is parked in violation of any temporary or permanent parking restriction. PCC 16.30.210 D states that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.220 B permits a Parking Enforcement Officer to order a vehicle towed, without prior notice, if the vehicle is illegally parked in a posted restricted space/zone.

Mr. Olberding testified at the hearing that on August 19, 2012, he was informed that his brother's wife had died. Mr. Olberding stated that this news was very stressful for him. Mr. Olberding stated that he immediately made plans to travel to Minnesota to attend the funeral for his brother's wife. Mr. Olberding stated that he departed Portland on August 21, 2012 and did not return until August 26, 2012. Mr. Olberding stated that he parked his vehicle, prior to leaving for Minnesota, on the public right-of-way in the vicinity of SE 14<sup>th</sup>/SE Belmont.

Mr. Olberding testified that he reviewed a Portland Police investigation report submitted in this case. (Exhibit 8) Mr. Olberding stated that he disagreed with one statement in the investigation report; that Christopher Barber had

stated his (Barber's) supervisor did not see Mr. Olberding's vehicle at the time temporary no parking signs were placed on August 23, 2012.

The investigation report (Exhibit 8) states, in addition to the comment referenced in the preceding paragraph, that Barber "stated they posted the signs on 8/23/12 in the morning." The police officer, in the investigation report, also states that "on arrival I observed SHR 956 – MV parked in the no parking zone. I noted multiple no parking signs clearly stating no parking on 8/24/12."

The Hearings Officer finds that Mr. Olberding's testimony is credible. The Hearings Officer finds that Mr. Olberding received word that a family member had died and that on August 21, 2012 he traveled away from Portland and did not return until August 26, 2012. The Hearings Officer finds that Mr. Olberding's vehicle was parked on the public right-of-way from August 19, 2012 until it was towed on August 24, 2012. The Hearings Officer finds, based upon the police officer's investigation report (Exhibit 8) that temporary no parking signs were placed in the vicinity of SE 14<sup>th</sup>/SE Belmont during the morning hours of August 23, 2012. The Hearings Officer finds that Mr. Olberding's vehicle was ordered towed at approximately 1731 hours (5:31 p.m.) on August 24, 2012.

The Hearings Officer finds, based upon the evidence in the record, that temporary no parking signs were placed in close proximity to Mr. Olberding's vehicle more than 24 hours prior to Mr. Olberding's vehicle being ordered towed. The Hearings Officer finds that the police officer who ordered Mr. Olberding's vehicle towed on August 24, 2012 followed the relevant laws/rules applicable to this case. The Hearings Officer finds the City of Portland ordered tow of Mr. Olberding's vehicle on August 24, 2012 is valid.

**ORDER:**

1. The City of Portland ordered tow of Mr. Olberding's vehicle (Jeep Cherokee – Minnesota license SHR 956) on August 24, 2012 is valid; Mr. Olberding's appeal is denied.
2. All towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.



Gregory J. Frank, Hearings Officer

Dated: September 4, 2012  
GJF:c1

Enclosure

Bureau: Police  
Tow Number: 13137

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Olberding, Scott	Received
2	US Airways Flight Info.	Olberding, Scott	Received
3	Post-Bulletin Obituary	Olberding, Scott	Received
4	Tow Desk printout	Hearings Office	Received
5	Hearing Notice	Hearings Office	Received
6	Notice of Rights and Procedures	Hearings Office	Received
7	Towed Vehicle Record	Police Records	Received
8	Investigation Report	Police Records	Received