



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF JOSHUA HAMILTON

CASE NO. 1120153

DESCRIPTION OF VEHICLE: Volkswagen Jetta (OR 024FVD)

DATE OF HEARING: September 11, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Hamilton did not appear at the hearing or offer any oral testimony 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 documents admitted into evidence (Exhibits 1 through and including 8).

### Summary of Evidence:

Mr. Hamilton submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on August 30, 2012 from SW Park and SW Ardmore. Mr. Hamilton wrote in a type-written attachment that he has not gotten a "real straight forward answer" about why his vehicle was towed. Mr. Hamilton wrote that the "ticket" says that his car was out of gear and backed into a pole. Mr. Hamilton indicates that he does not believe that his vehicle could have moved in such a manner for three reasons: 1) The vehicle has a 5 speed transmission and would roll "as soon as I take my foot off the break (sic)", 2) The emergency brake was on when the vehicle was retrieved from the towing lot, and 3) There are no signs of damage from where the vehicle allegedly hit a pole. Mr. Hamilton further writes that the "ticket" says that his car was blocking traffic. Mr. Hamilton writes that he believes if his car did roll that it would have struck another parked car, and not blocked traffic. Mr. Hamilton submitted a printed map to show where his vehicle was parked prior to towing.

The city submitted Exhibits 5 through, and including, 8 regarding the tow of Mr. Hamilton's vehicle. Exhibit 5 is an Investigation Report submitted by the Portland Police Bureau which indicates that Officer Perry was dispatched to SW Park Pl and SW Ardmore Ave on report of a vehicle blocking SW Ardmore and causing a hazard for other motorists. The report indicates that the officer arrived on scene and found Mr. Hamilton's vehicle touching a telephone pole and blocking SW Ardmore Ave. The report indicates that the officer attempted to contact Mr. Hamilton, but was unsuccessful and subsequently ordered that the vehicle be towed. Exhibit 6 is a

Notice of Tow showing that the vehicle was towed because it was a "hazard." Exhibit 7 is a Towed Vehicle Record and Exhibit 8 is a Vehicle Release Form.

**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:**

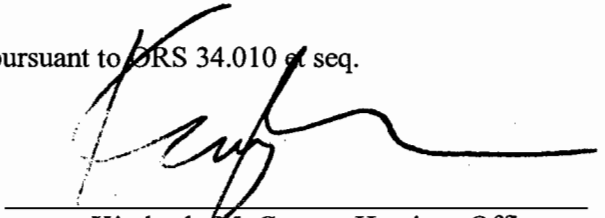
The Hearings Officer finds that Mr. Hamilton has no first hand knowledge about the location or condition of his vehicle prior to towing, and instead offers only assumptions about why his vehicle could not have rolled as described by the officer. The Hearings Officer finds the report submitted by Portland Police Officer Perry to be credible, and finds that it accurately reflects the condition and location of Mr. Hamilton's vehicle prior to towing. The Hearings Officer finds that Mr. Hamilton's vehicle was stopped in a manner which created a traffic hazard and impeded the safe and efficient movement of vehicular traffic on a public right-of-way. The Hearings Officer finds that the tow of Mr. Hamilton's vehicle on August 30, 2012 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: September 12, 2012  
KMG:c1/ml

  
Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police  
Tow Number: 13463

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