



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF CAROL M. LARSON

CASE NO. 1120162

DESCRIPTION OF VEHICLE: Buick Regal (OR MQY109)

DATE OF HEARING: September 25, 2012

APPEARANCES:

Carol Larson, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Larson appeared at the hearing and testified on her 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 Ms. Larson and the documents admitted into evidence (Exhibits 1 through and including 6).

Summary of Evidence:

Ms. Larson submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on September 9, 2012. Ms. Larson writes that she believes the tow of her vehicle is invalid because her daughter was directed to park on Marine Dr. by "venue staff," and that her daughter parked "in good faith that she was directed to legal parking." Ms. Larson writes that there were no vertical signs indicating a bike lane and that there were multiple cars parked in the same area which obscured any bike lane markings on the ground. Ms. Larson testified at the hearing that her daughter returned to the car around 9:00 p.m. and found that it was gone. Ms. Larson testified that her daughter had been told to park her car along Marine Drive by the "people from the venue." Ms. Larson testified that there were other cars parked in front and behind where her daughter parked. Ms. Larson described where her daughter parked as "on Marine Drive facing east." Ms. Larson stated that the car was straddling the bike lane, because there is no shoulder on the road. Ms. Larson stated that the bike lane is approximately 3-4 feet wide, and clearly narrower than a vehicle.

The City submitted Exhibits 5 and 6 for the Hearings Officer's consideration. Exhibit 5 is a Towed Vehicle Record showing that Ms. Larson's vehicle was towed because it was a "hazard". Exhibit 6 is an Investigation Report from the Portland Police Bureau completed by Officer McDaniel. The report indicates that a number of vehicles, including Ms. Larson's vehicle, were towed on September 9, 2012 from N. Marine Dr and N. Leadbetter. The report indicates that on September 9, 2012 Officer McDaniel was assigned to Kelly Point park for "Hempstock 2012". The officer writes that, "We had spoken with the organizer Paul Stanford throughout the day Saturday (9-8-12) trying to verify he had received a permit from the city to allow parking on N. Marine Dr.

He was not able to produce the permit, and parking patrol had no record of it. I informed Mr. Stanford that if the permit was not produced for me to review Sunday morning that we would be enforcing the parking laws along N. Marine Dr." The report further indicates that Mr. Stanford was not able to produce the parking permit for street parking on September 9, 2012. The report reads, "At about 1515 hrs. BOEC advised that complaints were coming in about vehicles parked along N. Marine Dr. at N. Leadbetter that were blocking part of the EB travel lane. I had the Traffic Division and my detail write parking tags for blocking the bicycle lane, and had the vehicles towed as hazards since they were blocking both the bicycle lane and part of the vehicle travel lane."

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:

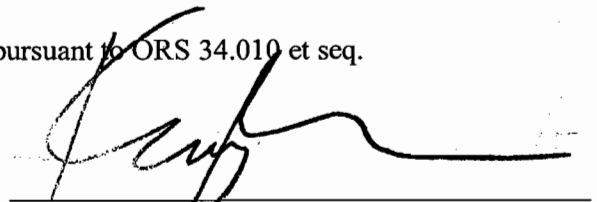
The Hearings Officer finds that no permit was issued to the Hempstalk festival which would allow parking on N. Marine Dr. during the festival. The Hearings Officer finds that Ms. Larson's vehicle, on September 9, 2012, was parked on N. Marine Dr. in a manner which blocked the bicycle lane and a portion of the lane of travel. The Hearings Officer finds that the manner in which Ms. Larson's vehicle was parked created a hazard for bicycles and vehicles on the roadway and impeded the normal flow of vehicular traffic. The Hearings Officer finds that the tow of Ms. Larson's vehicle on September 9, 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 27, 2012
KMG:c1/ml


Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 13991

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Larson, Carol M.	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	Investigation Report	Police Records	Received