



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 ISABELLE ROBERTSON

CASE NO. 1120165

DESCRIPTION OF VEHICLE: BMW 325i (OR 285BVZ)

DATE OF HEARING: September 25, 2012

APPEARANCES:

Isabelle Robertson, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Robertson 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. Robertson and the documents admitted into evidence (Exhibits 1 through and including 8).

Summary of Evidence:

Ms. Robertson submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on September 11, 2012. Ms. Robertson indicated in Exhibit 1 that she parked her vehicle around 6:55 a.m. on September 11, 2012 and found that it had been towed when she returned at 3:30 p.m. Ms. Robertson writes that she saw the delineators and believed that she had parked properly. Ms. Robertson testified at the hearing that she saw the delineators and believed that she couldn't park between them. Ms. Robertson testified that she parked after the second delineator and believed that she was parked properly.

The City submitted Exhibits 5 through, and including, 7 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report indicating that Ms. Robertson's vehicle was towed on September 11, 2012 from SW 2nd between SW Salmon and SW Main. The narrative portion of the report indicates that a service request was received to remove a vehicle from a reserved space. The report indicates that the delineators were placed on August 10, 2012 at 10:31 am. and read "No parking this space 6A-5P M-F 8/13/12-9/14/12". Exhibit 6 is a copy of the citation issued to Ms. Robertson on September 11, 2012. Exhibit 7 contains 4 photos related to the tow of Ms. Robertson's vehicle. The photos clearly show 2 delineators posted next to the roadway and containing the language indicated above. The Hearings Officer notes that the delineators do not contain any arrows indicating

which spaces are reserved. Ms. Robertson's vehicle is clearly visible in the photos parked with the front bumper next to the second delineator.

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 16.30.210 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 E states that temporary parking restrictions may be enforced by tow as long as the delineators are placed prior to 12:30 p.m. on the day prior to enforcement in any 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 conspicuously posted restricted space/zone.

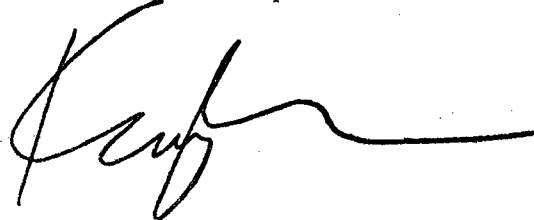
Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on August 10, 2012 temporary no parking delineators were placed near the corner of SW Salmon and SW 2nd Ave. The Hearings Officer finds that the parking restriction was effective beginning August 13, 2012 and continued through September 14, 2012. The Hearings Officer finds that on September 11, 2012 Ms. Robertson parked her vehicle near SW Salmon and SW 2nd in a space parking enforcement intended to reserve when placing the delineators. The Hearings Officer finds that the language on the delineators, and the absence of an arrow pointing to the space reserved, makes the area to be reserved unclear to the reasonable person. The Hearings Officer find that the temporary parking restriction was not conspicuously posted, and the tow of Ms. Robertson's vehicle 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.

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



Dated: September 27, 2012
KMG:c1/m2

Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 14072

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	Robertson, Isabelle	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Tow Invoice	Robertson, Isabelle	Received