



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 STEPHEN LEVESQUE

CASE NO. 1120168

DESCRIPTION OF VEHICLE: Chrysler PT Cruiser (OR 070ENP)

DATE OF HEARING: September 27, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Levesque did not appear at the hearing. Mr. Levesque was mailed a Notice of Hearing on September 20, 2012. The Notice was not returned by the U.S. Mail Service, and Mr. Levesque did not contact the Hearings Officer prior to the hearing to request that the hearing be rescheduled. 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. Levesque submitted Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on September 10, 2012 from NW Davis St. Mr. Levesque writes on the form "Signage is not very visible. Photos Attached." Mr. Levesque attached 3 photos, Exhibit 2, to the form; however, the quality of the photos is so poor that they are not considered when making this decision. Mr. Levesque did not submit any other information regarding the tow of his vehicle.

The city submitted Exhibits 6 through, and including, 8 for the Hearings Officer's consideration. Exhibit 6 is a Tow Hearing Report which indicates that the vehicle was towed at 4:50 p.m. on September 10, 2012 because it was parked in a truck loading zone. The narrative portion of the report indicates that 2 vehicles were parked in the truck loading zone and that a delivery truck was unable to get into the loading zone because of the vehicles. The report indicates that there are 2 signs marking the zone. One sign is approximately 4-5 feet high and the other is approximately 11-12 feet high. The report indicates that Mr. Levesque's vehicle was parked adjacent to the 4-5 foot high sign. Exhibit 7 is a copy of the parking citation issued to Mr. Levesque on September 10, 2012. Exhibit 8 contains 4 photos related to the tow of Mr. Levesque's vehicle. The photos show Mr. Levesque's vehicle parked on the roadway with the rear bumper adjacent to a sign which has the universal symbols for no parking and truck loading, and reads "7am-6pm Mon-Sat."

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. PCC 16.20.220B provides that only the following vehicles, while being actively loaded or unloaded, may park in a truck loading zone for no more than 30 minutes: 1. A truck; 2. A vehicle defined by its DMV registration as a truck, van, or pick-up that exhibits the commercial nature of the vehicle; 3. A passenger or other vehicle with an official commercial loading permit; 4. Any vehicle with Farm Vehicle registration plates; 5. Taxicabs. PCC 16.30.210A1 permits a vehicle to be towed if it is parked in violation of a temporary or permanent parking restriction. PCC 16.30.220 A permits a vehicle to be towed without prior notice and stored, at the owner's expense, when the vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic.

Findings of Fact and Conclusions of Law:

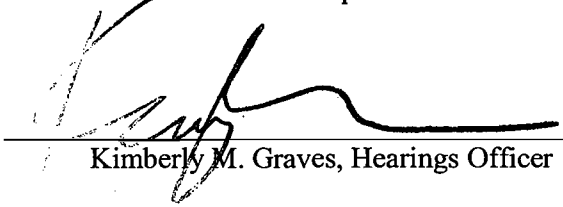
The Hearings Officer finds that Mr. Levesque's vehicle is a passenger vehicle, and there is no evidence in the record to prove that the vehicle was permitted under PCC 16.20.220B to be parked in a truck loading zone. The Hearings Officer finds that Mr. Levesque's vehicle was parked in violation of the permanent parking restriction. The Hearings Officer finds that Mr. Levesque's vehicle, as parked, impeded the normal flow of vehicular traffic into and out of the zone. The Hearings Officer finds that the tow of Mr. Levesque's vehicle 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 28, 2012
KMG:c1/ml


Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 14032

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Levesque, Stephen	Received
2	Photos	Levesque, Stephen	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Notice of Rights and Procedures	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation #HA08508956	Parking Enforcement	Received
8	Photos	Parking Enforcement	Received