



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 JEREMY HEALEY

CASE NO. 1120187

DESCRIPTION OF VEHICLE: Nissan Altima (OR 393FBA)

DATE OF HEARING: October 16, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Healey did not appear at the hearing. A Notice of Hearing was mailed to Mr. Healey on October 10, 2012 to the address he provided on his appeal hearing request form. The Notice was not returned by the U.S. Mail Service, and Mr. Healey did not contact the Hearings Officer requesting 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. Healey submitted Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on October 1, 2012 from NW 19th Ave. Mr. Healey indicates that he believes the tow of his vehicle is invalid because the city changed the parking restrictions without notice. Mr. Healey writes that he parked his vehicle on September 23, 2012 and left for his "honeymoon". Mr. Healey writes that when he parked his vehicle there were two "car sharing" spaces on the block. Mr. Healey writes that he parked adjacent to a car sharing space in an "unrestricted" parking space. Mr. Healey writes that while he was out of town the city changed the parking on the block and put up signage reserving four spaces for car sharing. Mr. Healey writes that he did not have any notice about the change, and that he was otherwise parked legally.

The City submitted Exhibits 1 through, and including, 8 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report indicating that Mr. Healey's car was towed on October 1, 2012 at approximately 12:00 noon. The narrative portion of the report reads, "As the pictures show, the sign w/tow rider sign was clearly posted, per policy, was towed. Also see 24 hour rule." The report lists a verification date and time of September 27, 2012 at 10:00 a.m. Exhibit 6 is a copy of the citation issued to Mr. Healey for violating PCC 16.20.280B. Exhibit 7 contains four photos related to the tow of Mr. Healey's vehicle. The photo show Mr. Healey's vehicle parked

with the front bumper adjacent to a sign reading "Permitted Car Share Vehicles Only All Hours All Days". The sign has an arrow pointing in the direction of Mr. Healey's vehicle. A diagram showing a vehicle being towed is also posted with the car share sign. Exhibit 8 submitted by the city contains the language found in PCC 16.20.170A.

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 16.20.170 provides that "no person may store . . . a vehicle . . . on public right-of-way or other public property in excess of 24 hours without permission . . ." PCC 16.30.210B provides that permanent parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.20.280B provides that no vehicle may park in an official/reserved zone unless authorized as indicated by the sign or markings of the zone. PCC 16.30.210A1 provides that a vehicle may be towed and held at the expense of the owner from any public right-of-way when the vehicle is parked in violation of a permanent parking restriction. PCC 16.30.220B permits any authorized officer to tow a vehicle without prior notice when the vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane.

Findings of Fact and Conclusions of Law:

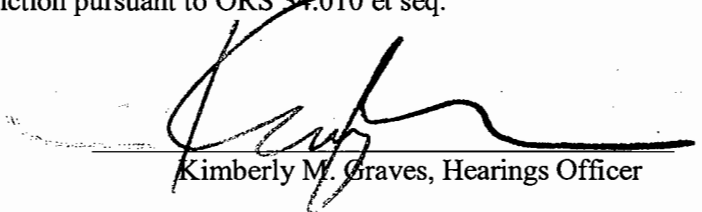
The Hearings Officer finds that on September 23, 2012 Mr. Healey parked his vehicle on a City of Portland public right-of-way. The Hearings Officer finds that on September 27, 2012 at 10:00 a.m. a permanent parking restriction was put into place for the space in which Mr. Healey's vehicle was parked. The Hearings Officer finds that the permanent parking restriction was enforceable 24 hours after placement. The Hearings Officer find that on October 1, 2012, greater than 24 hours after the permanent parking restriction went into effect, Mr. Healey's vehicle remained parked in the area subject to the parking restriction. The Hearings Officer finds that Mr. Healey's vehicle was parked in violation of the permanent parking restriction, and that the restriction was conspicuously posted. The Hearings Officer finds the tow of Mr. Healey'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: October 17, 2012
KMG:c2/m2


Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 15105

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Healey, Jeremy	Received
2	Tow Desk printout	Hearings Office	Received
3	Notice of Hearing	Hearings Office	Received
4	Statement of Rights	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation #HA09045983	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	16.20.170 Storing Property on Street Prohibited	Parking Enforcement	Received