



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF KRYSTA C. KELLEY

CASE NO. 1120190

DESCRIPTION OF VEHICLE: Winnebago Motor Home (OR HC02210)

DATE OF HEARING: October 18, 2012

APPEARANCES:

Ms. Krysta Kelley, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

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

Summary of Evidence:

Ms. Kelley submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her motor home on October 16, 2012. In Exhibit 1, Ms. Kelley writes "I live in a somewhat "gray" area in Portland that is in Washington Co. When I got the moho I called the Wash. Co. Sheriff's office to ask if I can park on the street in my area and the answer was yes." Ms. Kelley testified that she received the motor home in May 2012 and that prior to receiving the motor home she contacted the Washington County Sheriff's Office to find out if she could legally park it on her street. Ms. Kelley testified that she was told by the Sheriff's Office that she could park the motor home on the street. Ms. Kelley testified that she used the motor home throughout the summer, but that it hadn't been used for about 3 weeks prior to towing. Ms. Kelley testified that after receiving the tow warning notice she attempted to contact the Abandoned Autos Section, but that she either received voicemail or the person she needed to talk to was unavailable. Ms. Kelley testified that she thought that she had done what she needed to do by calling the sheriff's office, and she thought she was parking legally.

The City submitted Exhibits 5 through, and including, 8 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report from the Abandoned Auto Section of the Office of Transportation. The report indicates that a call was received by the Abandoned Auto Section about the motor home. The report indicates that a representative from the Abandoned Auto Section located the vehicle on SW Terry at 9:11 a.m. on October 12, 2012. The report indicates that a tow warning notice was placed on the vehicle on October 12, 2012 indicating

that it was a "Prohibited RV." The report writer notes that "there was no one loading or unloading the RV." The motor home was towed on October 15, 2012 when it was found in the same location as on October 12, 2012. Exhibit 7 is a copy of the citation issued to Ms. Kelley on October 15, 2012 at approximately 9:40 a.m. Exhibit 8 contains 3 photos related to the tow of Ms. Kelley's motor home. The upper left photo shows where the tow warning notice placed on the motor home on October 12, 2012 had been removed prior to towing. The lower left photo shows the size of the motor home, and that it is a vehicle designed for human occupancy on a temporary basis.

Applicable Law:

The Hearings Officer must find a tow is valid if the Hearings Officer finds that 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 16.20.120 H provides that it is unlawful to park or stop a vehicle: When the vehicle is: . . . a recreational vehicle . . . in the public right-of-way adjacent to or directly across from residential, public park, church, or school property, except: 1. When loading/unloading property belonging to the occupants of or performing a service on the adjacent residence, for a period not to exceed 8 hours; or 2. A recreation vehicle when servicing or loading/unloading the vehicle for a period not to exceed 8 hours. PCC 16.90.290 defines "recreational vehicle" which is designed for human occupancy on an intermittent basis. PCC 16.30.225 permits the tow of a vehicle 72 hours after notice of intent to tow has been affixed to or placed on the vehicle if the vehicle is in violation of 16.20.120 H or I or 16.20.170.

Findings of Fact and Conclusions of Law:

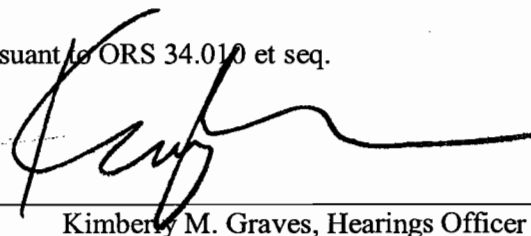
The Hearings Officer finds that on October 12, 2012 Ms. Kelley's motor home was parked on a public right-of-way in a residential area. The Hearings Officer finds that the motor home fits the definition of a recreational vehicle found in the Portland City Code. The Hearings Officer finds that the motor home was not being loaded or unloaded and that the motor home had been parked for approximately 3 weeks. The Hearings Officer finds that a tow warning notice was properly affixed to the motor home at 9:11 a.m. on October 12, 2012. The Hearings Officer finds that on October 15, 2012, greater than 72 hours after the tow warning notice was affixed, the motor home remained parked on the public right of way. The Hearings Officer finds the tow of Ms. Kelley's motor home 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 19, 2012
KMG:c1/ml



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 16042

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Kelley, Krysta C.	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	Abandoned Autos	Received
6	Detail for Case No: AUT2012-012095	Abandoned Autos	Received
7	Parking Violation #HA08950670	Abandoned Autos	Received
8	Photos	Abandoned Autos	Received