

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF MINH TRUONG

CASE NO. 1120191

DESCRIPTION OF VEHICLE: Lexus I5300 (OR ZBC289)

DATE OF HEARING: October 23, 2012

APPEARANCES:

Ms. Minh Truong, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Truong 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. Truong and the documents admitted into evidence (Exhibits 1 through and including 18).

Summary of Evidence:

Ms. Truong submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on October 5, 2012. Ms. Truong writes that she believes the tow of her vehicle is invalid because it was "towed because it was involved in an accident where someone hit my car in the middle of the night while it was parked on the street." Ms. Truong writes that she was not aware of the situation until the next morning. Ms. Truong appeared at the hearing and testified that she woke up on October 5, 2012 and went to "find" her vehicle. Ms. Truong stated that her vehicle was parked on SW Alder between 16th and 17th. Ms. Truong testified that she could not locate her vehicle, and called a tow company to see if it had been towed. Ms. Truong testified that the tow company told her to contact the police. Ms. Truong testified that the police told her that her car had been hit and that it was up on the curb when it was towed. Ms. Truong testified that she had to pay \$150 for the chance to get her vehicle out of the tow lot, and that she would like the \$150 refunded to her.

The city submitted Exhibits 5 through, and including, 18 regarding the tow of Ms. Truong's vehicle. Exhibit 5 is an Oregon Police Traffic Crash Report written by Officer Glaske of the Portland Police Bureau. The report indicates that on October 5, 2012 Ms. Truong's vehicle was struck while it was parked and sustained significant damage. Exhibit 6 is a diagram of the crash scene. The diagram shows Ms. Truong's vehicle at an angle with the right front passenger side on the sidewalk. Exhibit 7 is a Custody Report which contains some information about the tow of Ms. Truong's vehicle. The report states "About a half of a block east of our location on Alder, Vehicle

#2 (ORLN ZBC289) had been hit and the front of the vehicle was on the sidewalk.” The remainder of Exhibit 7 and all of Exhibits 8 through, and including, 14 relate to an investigation of the driver who struck Ms. Truong’s vehicle and are unrelated to the basis for the tow of Ms. Truong’s vehicle. Exhibit 15 is a Towed Vehicle Record which indicates that Ms. Truong’s vehicle was towed because it was a hazard. Exhibits 16, 17, and 18 are unrelated to the basis for the tow.

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. 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.

Findings of Fact and Conclusions of Law:

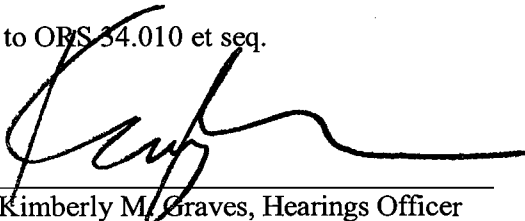
The Hearings Officer finds that on October 5, 2012 Ms. Truong’s vehicle was involved in a collision. The Hearings Officer finds that as a result of the collision, Ms. Truong’s vehicle was pushed onto the curb of SW Alder. The Hearings Officer finds that the manner in which the vehicle came to rest was hazardous to traffic and impeded the normal flow of vehicular and pedestrian traffic. The Hearings Officer finds that the tow of Ms. Truong’s vehicle as a hazard 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 24, 2012
KMG:c1/m2


Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 15342

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Truong, Minh	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Oregon Police Traffic Crash Report	Police Records	Received
6	Diagram	Police Records	Received
7	Custody Report	Police Records	Received
8	Notice of Tow	Police Records	Received
9	WA Driver License copy	Police Records	Received
10	Field Sobriety Test Report	Police Records	Received
11	DUII Interview Report	Police Records	Received
12	Implied Consent Combined Report	Police Records	Received
13	Intoxilyzer 8000 Operator's Checklist	Police Records	Received
14	Breath Test Report	Police Records	Received
15	Towed Vehicle Record	Police Records	Received
16	Records	Police Records	Received
17	OR Driver License	Police Records	Received
18	Vehicle Release	Police Records	Received