



CITY OF PORTLAND

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HEARINGS OFFICER'S ORDER

APPEAL OF HOLLY M. BOGGS

CASE NO. 1120195

DESCRIPTION OF VEHICLE: Ford Mustang (OR 150DRJ)

DATE OF HEARING: October 29, 2012

APPEARANCES:

Ms. Holly M. Boggs, Appellant

Officer Taylor Letsis, for the City

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Ms. Holly Boggs ("Boggs") appeared at the October 29, 2012 hearing (the "Hearing") and testified on her own behalf. Police Officer Taylor Letsis ("Letsis") appeared at the Hearing on behalf of the City of Portland ("City"). Neither Boggs nor Letsis expressed objection to the admission of Exhibits 1 through and including 16. Boggs reviewed Exhibit 7 and informed the Hearings Officer that she had read Exhibit 7 and did not wish to raise any issue or question/challenge the Hearings Officer about any matter contained therein. The Hearings Officer admitted Exhibits 1 through and including 16. The Hearings Officer makes this decision based upon the testimony of Boggs and Letsis and the exhibits admitted into the evidentiary record.

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case, the relevant laws/rules are 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 16.30.200 K.1. This section of the PCC states that "any authorized officer may, without prior notice, order a vehicle towed, when the officer has probable cause to believe that the vehicle's operator was driving uninsured" (in violation of Oregon Revised Statutes "ORS" 806.010). The Hearings Officer takes note that ORS 806.011 indicates that the failure of the driver of a motor vehicle to show a valid card or other proof of compliance when asked to do so by a police officer is reasonable grounds for the officer to believe that the person is operating the vehicle in violation of ORS 806.010.

Letsis identified himself as a Gresham Police Officer assigned to the TriMet Transit Police Division ("TriMet Transit Police"). TriMet Transit Police is a division of the Portland Police Bureau. Letsis testified that on October 15, 2012, he, along with a partner, were in a police vehicle stopped at the intersection of SE 7th and SE Division Street ("The Intersection") in the City. Letsis stated that the stoplight at The Intersection turned green and he began to pull forward when he observed a blue Ford Mustang (Ford Mustang with Oregon license plate number 180DRS – hereafter the "Boggs Vehicle") approaching the intersection. Letsis stated that the Boggs Vehicle proceeded through the intersection forcing him to abruptly stop his police vehicle. Letsis stated that the Boggs Vehicle was driven through The Intersection during a time that the red light was displayed towards the Boggs Vehicle.

Letsis testified that he pursued the Boggs Vehicle. Letsis stated that the Boggs Vehicle stopped alongside the roadway directly in front of a private parking lot driveway. During the traffic stop, Letsis stated that Boggs informed him that she did not have a current/valid driver's license and did not have current/valid insurance on the Boggs Vehicle. Letsis stated that the location where the Boggs Vehicle was parked was hazardous.

Boggs testified that on the evening of October 15, 2012, she was driving the Boggs Vehicle in SE Portland. Boggs stated that at the time it was dark and raining and hard to see. Boggs stated that she observed the traffic light at The Intersection to be green and then suddenly turn red. Boggs stated that she did proceed through The Intersection when the traffic light was red. Boggs expressed her opinion that either the traffic light had malfunctioned or that it had prematurely turned red because that traffic light is remotely controlled by railroad engines. Boggs stated that she gave police officers permission to search the Boggs Vehicle during the traffic stop. Boggs stated that the inventory produced by the search of the Boggs Vehicle was inaccurate.

Boggs testified that on October 15, 2012, she did not have a current/valid driver's license and did not have current/valid insurance on the Boggs Vehicle.

Boggs argued that all of the police officers present, at her traffic stop on October 15, 2012, were Gresham police officers; no city of Portland police officers were present. Boggs argued that Gresham police officers did not have, on October 15, 2012, jurisdiction to conduct a City traffic stop.

The Hearings Officer finds that Letsis is a member of the Gresham police force and is assigned to act on behalf of the City through the TriMet Transit Police. The Hearings Officer finds that ORS 810.410 (1) and (2) authorize a sworn Oregon police officer to conduct a traffic stop and issue a citation, even outside of the police officer's home jurisdiction, if the police officer observed a traffic violation or had probable cause to believe a traffic offense has occurred. The Hearings Officer finds that Letsis had authority to conduct a traffic stop and to order a vehicle towed in the City because Letsis was assigned to a division of the City police bureau. The Hearings Officer also finds, in the alternative, that Letsis was authorized, by ORS 810.410, to conduct the traffic stop in the City.

The Hearings Officer finds that the Boggs Vehicle was ordered towed on October 15, 2012 because Boggs was driving the Boggs Vehicle uninsured. (Exhibit 13) The Hearings Officer finds that Boggs admitted she did not have insurance to cover the Boggs Vehicle on October 15, 2012. Based upon the testimony of Letsis, and not contradicted or challenged by Boggs (she did suggest that there were no "No Parking" signs posted in the area she parked the Boggs Vehicle), the Hearings Officer finds that the Boggs Vehicle was parked, by Boggs, in front of a private driveway. The Hearings Officer finds that parking a vehicle in front of a private driveway creates a risk towards the vehicle itself and to the general public. The Hearings Officer finds that leaving the Boggs Vehicle parked in front of a driveway created a hazardous situation and that the City ordered tow of the Boggs Vehicle on October 15, 2012 was reasonable and necessary.

The Hearings Officer finds that the person ordering the Boggs Vehicle towed followed all relevant laws and rules. The Hearings Officer finds that the City ordered tow of the Boggs Vehicle on October 15, 2012 is valid; Boggs appeal is denied.

ORDER:

1. The City ordered tow of the Boggs Vehicle on October 15, 2012 is valid; Boggs appeal is denied.
2. All towing and storage charges against the vehicle shall remain the responsibility of the Boggs Vehicle's owner.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: November 2, 2012

GJF:c2/c1


 Gregory J. Frank, Hearings Officer

Enclosure

 Bureau: Police
 Tow Number: 15958

Exhibit #	Description	Submitted by	Disposition
1	10-19-12 Letter	Boggs, Holly M.	Received
2	Tow Desk printout	Hearings Office	Received
3	Forwarded 10-19-12 Letter from Holly M. Boggs	Police Records	Received
4	Tow Hearing Request Form	Boggs, Holly M.	Received
5	Faxed Copy from PPB Records of Tow Hearing Request	Police Records	Received
6	Notice of Hearing	Hearings Office	Received
7	Statement of Rights and Procedures	Hearings Office	Received
8	Towed Vehicle Record	Police Records	Received
9	Custody Report - Officer Letsis	Police Records	Received
10	Custody Report - Officer Bowen	Police Records	Received
11	Special Report - Officer Bowen	Police Records	Received
12	Impounded Animal	Police Records	Received
13	Notice of Tow	Police Records	Received
14	Oregon Uniform Citation and Complaint	Police Records	Received
15	Property Evidence Receipt: 1325163	Police Records	Received
16	Property Evidence Receipt: 1325164	Police Records	Received