



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF PENNY VANMEURS

CASE NO. 1120196

DESCRIPTION OF VEHICLE: Pontiac Grand Am (OR VVT739)

DATE OF HEARING: October 30, 2012

APPEARANCES:

Ms. Penny VanMeurs, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. VanMeurs 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. VanMeurs and the documents admitted into evidence (Exhibits 1 through and including 6).

Summary of Evidence:

Ms. VanMeurs submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on October 18, 2012. Ms. VanMeurs indicated on the form that she believes the tow of her vehicle is invalid because "Towed from parking spot outside home. I am disabled w/wheelchair w/plaquired. (sic) Registered Handicap spot filled. Had asked city for spot for myself. Others parked. I parked in supposed no parking but new to disability (sic) and thought was alright." Ms. VanMeurs testified at the hearing that she is newly disabled, and that she lives in a building that only has on street parking. Ms. VanMeurs testified that she requested a handicapped parking space from the city, and that one was installed in front of her building. Ms. VanMeurs testified that someone else routinely parks in the designated space. Ms. VanMeurs testified that there is a post office next to her building, and she checked with the post office about parking next to their gate. Ms. VanMeurs testified that the post office staff told her that they didn't mind if she parked near their gate, but that she would need to check with the City to see if it was a legal parking space. Ms. VanMeurs testified that she was parked near the post office entrance when her vehicle was towed. Ms. VanMeurs testified that she believes the space does have signage indicating that parking is prohibited at all times. Mr. VanMeurs testified that her vehicle was not blocking the post office driveway, and that post office vehicles could get around her vehicle if needed.

The City submitted Exhibits 5 and 6 regarding the tow of Ms. VanMeurs' vehicle. Exhibit 5 is a Towed Vehicle Record indicating that Ms. VanMeurs' vehicle was towed on October 18, 2012 from N. Kilpatrick for the violation of "NPA" or No Parking Area. Exhibit 6 is an Investigation Report from the Portland Police Bureau. The report indicates that on October 18, 2012 the officer responded to the post office and found Ms. VanMeurs' vehicle parked in a "no parking zone, partially blocking the driveway to the post office lot." The report indicates that a report was received that postal vehicles were having difficulty passing the vehicle. The report reads "I cited the Grand Am for the no parking zone and called for a tow."

Applicable Law:

The Hearings Officer finds that PCC 16.30.210 A.1 authorizes a Parking Enforcement Officer to order a vehicle towed and stored, at the owner's expense, if the vehicle is parked in any public right-of-way and the vehicle is parked in violation of any temporary or permanent parking restriction. PCC 16.30.205 B states that a sign without stated hours or days is in effect all hours of all days. PCC 16.30.220 B permits a Parking Enforcement Officer to order a vehicle towed, without prior notice, if the vehicle is illegally parked in a conspicuously posted restricted space/zone.

In this case two additional laws/rules are applicable; PCC 16.20.640 and Oregon Revised Statute ("ORS") 811.637. PCC 16.20.640 describes rights and restrictions to be applied to vehicles displaying a disabled person placard. ORS 811.637, a state of Oregon statute, describes rights and restrictions to be applied to vehicles displaying disabled person placards. PCC 16.20.640 A provides a vehicle properly displaying a disabled person placard may park in any "metered or nonmetered space with a designated time limit of 30 minutes or more for any amount of time without a fee."

PCC 16.20.637 B states, "a vehicle with a program placard issued under Oregon Revised Statutes 811.607 may park as provided under Oregon Revised Statutes 811.637." ORS 811.637 (1) states, in part, that, "a program placard described under ORS 811.607 confers only the following privileges." ORS 811.637 (2) states:

"The privileges granted under subsection (1) of this section do not include any of the following: (a) parking in zones where stopping, parking or standing of all motor vehicles is prohibited. (b) Parking in the late evening or overnight where such parking is prohibited. (c) Parking in zones reserved for special types of motor vehicles or activities. (d) Parking in zones where parking is permitted for 30 minutes or less."

The Hearings Officer takes judicial notice of the State of Oregon DMV website related to disabled person parking placards. Specifically, the Hearings Officer takes notice of the webpage that displays the application form for a disabled person parking permit placard (<http://www.odot.state.or.us/forms/dmv/265.pdf>). The application form states the following:

"Parking privileges for all types of parking permits DO NOT apply to a zone where:

- Stopping, parking or standing of all vehicles is prohibited.
- Late evening or overnight parking is prohibited.
- Parking is reserved for special types of vehicles or activities."

Findings of Fact and Conclusions of Law:

The Hearings Officer finds that a vehicle displaying a disabled person parking placard is granted special rights and privileges. The Hearings Officer, however, finds that those special rights and privileges do have limits. The Hearings Officer finds that those limitations are summarized in the application for a disabled person parking permit (<http://www.odot.state.or.us/forms/dmv/265.pdf>), ORS 811.637.

PCC 16.20.640 B incorporates ORS 811.627 as part of the City Code. The Hearings Officer finds that PCC 16.20.640 B incorporates the limitations set forth in ORS 811.637 (2). The Hearings Officer finds that ORS 811.637 (2) does not allow a person with a valid disabled person parking placard to park in "zones where stopping, parking or standing of all motor vehicles is prohibited."

The Hearings Officer finds that the current application form for a person applying for a disabled person parking placard includes general reference to the limitations set forth in ORS 811.637. The Hearings Officer finds that Ms. VanMeurs is the holder of a disabled person parking placard, is subject to PCC 16.20.640 and ORS 811.637.

The Hearings Officer finds that the space where Ms. VanMeurs' vehicle was parked was conspicuously posted with permanent parking restriction signs. The Hearings Officer notes that Ms. VanMeurs admitted at the hearing to being aware of the No Parking sign, but indicated that she was unsure if she was permitted to park there because of her disabled placard. The Hearings Officer finds that the disabled person parking placard, displayed by Ms. VanMeurs in her vehicle at all times relevant to this case, does not allow Ms. VanMeurs to park her vehicle in a No Parking Zone.

The Hearings Officer is sympathetic to Ms. VanMeurs' disabilities. However, as the owner of a motor vehicle which is parked on the City of Portland public right-of-way, Ms. VanMeurs is expected, as all other vehicle owners, to ensure that she is not parked in violation of any parking restrictions.

The Hearings Officer finds that the officer who ordered Ms. VanMeurs' vehicle towed on October 18, 2012, followed all relevant laws/rules. The Hearings Officer finds the tow of Ms. VanMeurs' vehicle on October 18, 2012 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: November 1, 2012

KMG:c2/m2

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Police
Tow Number: 16172

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	VanMeurs, Penny	Received
2	Tow Desk printout	Hearings Office	Received
3	Notice of Hearing	Hearings Office	Received
4	Statement of Rights and Procedures	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	Investigation Report	Police Records	Received