



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF WILLIAM KRAIG KYRISS

CASE NO. 1120254

DESCRIPTION OF VEHICLE: Homemade Trailer (No plates/No VIN)

DATE OF HEARING: December 18, 2012

APPEARANCES:

Mr. William Kraig Kyriss, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Kyriss appeared at the hearing and testified on his 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 Mr. Kyriss and the documents admitted into evidence (Exhibits 1 through and including 10).

Summary of Evidence:

Mr. Kyriss submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his utility trailer on December 4, 2012. Mr. Kyriss also submitted a vehicle registration for his Toyota 4 Runner truck and a copy of photos showing the trailer. (see Exhibits 2 and 3) Mr. Kyriss writes in Exhibit 1 that he believes his trailer was towed because it was considered "abandoned" by the city. Mr. Kyriss writes that the trailer should not be considered "abandoned" under 16.90.005. Mr. Kyriss writes that the trailer was attached to the back of a truck which was being "moved often." Mr. Kyriss appeared at the hearing and testified that the trailer was padlocked to his truck which he uses approximately 2 times a week. Mr. Kyriss testified that when the truck is not being used, the truck and trailer are parked on the public right-of-way in a residential area. Mr. Kyriss testified that prior to the trailer being towed on December 4, 2012, he had moved the truck and trailer on November 30, 2012 and December 2, 2012. Mr. Kyriss testified that he did not see the tow notice attached to his trailer, but that he was aware that the trailer needed to be moved from the roadway.

The City submitted Exhibits 7 through, and including 10 for the Hearings Officer's consideration. Exhibit 7 is a Tow Hearing Report indicating that Mr. Kyriss' trailer was towed on December 4, 2012 because it was a prohibited trailer under PCC 16.20.120H. The report indicates that a "public report" was received about the trailer on November 28, 2012. The report indicates that on November 29, 2012 a member of the Abandoned Auto Section of the Office of Transportation located the trailer and placed a tow warning notice on the trailer indicating

that it was a prohibited trailer and needed to be moved off of the public roadway. The report indicates that on December 4, 2012 a member of the Abandoned Auto Section returned and found the trailer parked in the same location. The report indicates that a tow of the trailer was ordered on December 4, 2012. Exhibit 8 contains the information listed in Exhibit 7 in a different format. Exhibit 9 is a copy of the citation issued when the order to tow the trailer was made. Exhibit 10 contains 2 photos related to the tow of the trailer. The photos show 2 views of the trailer and show that the trailer was parked on the public right-of-way and appears to be a utility trailer.

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 16.20.120H provides that it is unlawful to park or stop a vehicle, when the vehicle is a utility trailer, across from residential, public park, church, or school property, except 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. PCC 16.90.420 defines a "utility trailer" as a vehicle which is used to carry property, refuse, or special equipment, is 16 feet or less in length and is designed to be pulled by a motor vehicle. PCC 16.30.225 provides that a vehicle may be towed 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.

Findings of Fact and Conclusions of Law:

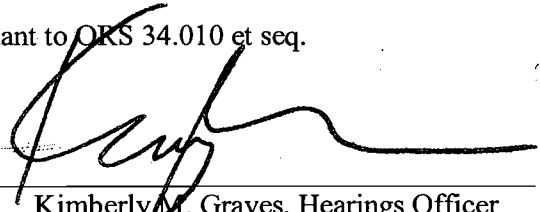
The Hearings Officer finds that Mr. Kyriss' trailer is a utility trailer as defined in PCC 16.90.420. The Hearings Officer finds that the trailer was parked on the public right-of-way for greater than 8 hours, and at a time when it was not being actively loaded or unloaded or performing a service, between November 29 2012 and December 4, 2012. The Hearings Officer finds that the trailer was parked on the public right-of-way in violation of PCC 16.20.120H. The Hearings Officer finds that a tow warning notice was appropriately affixed to the trailer on November 29, 2012, and that the trailer was not towed until greater than 72 hours after the tow warning notice was attached. The Hearings Officer finds that that the individual who ordered the tow of the trailer was following all of the relevant rules/laws in the PCC when they made that order. The Hearings Officer finds the tow of Mr. Kyriss' trailer is valid.

Order:

Therefore, it is ordered that all towing and storage charges against the vehicle, and an administrative fee, if applicable, shall remain the responsibility of the appellant.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: December 20, 2012
KMG:c1/ml


Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Abandoned Autos
Tow Number: 19242

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Kyriss, William Kraig	Received
2	Passenger Registration - Toyota 4Runner	Kyriss, William Kraig	Received
3	Photos	Kyriss, William Kraig	Received
4	Tow Desk printout	Hearings Office	Received
5	Hearing Notice	Hearings Office	Received
6	Notice of Rights and Procedures	Hearings Office	Received
7	Tow Hearing Report	Abandoned Autos	Received
8	Tow Detail	Abandoned Autos	Received
9	Parking Violation	Abandoned Autos	Received
10	Photos	Abandoned Autos	Received