



CITY OF PORTLAND

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HEARINGS OFFICER'S ORDER

APPEAL OF Megan K. Werntz & Ryan P. Werntz

CASE NO. 1120234

DESCRIPTION OF VEHICLE: Mercedes-Benz 320 (OR 379FRQ)

DATE OF HEARING: December 11, 2012

APPEARANCES:

Mr. Ryan Werntz, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Ryan Werntz ("Werntz") appeared at the December 11, 2012 hearing and testified as a co-owner of a 1998 Mercedes Benz (Oregon license 379 FRQ – hereafter the "Vehicle"). No person appeared at the hearing to testify on behalf of the City of Portland ("City"). The Hearings Officer makes this decision based upon the testimony of Werntz and the documents admitted, without objection from Werntz, into the evidentiary record (Exhibits 1 through and including 7).

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 16.30.210 A.1, PCC 16.30.210 D, and PCC 16.30.220 B. 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 16.30.210 D states that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. 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 posted restricted space/zone.

Werntz testified that when he parked the Vehicle there was no signage to indicate any parking restrictions. Werntz stated that he received no notice that temporary no parking restrictions would be placed in the vicinity where he parked the Vehicle. Werntz questioned whether he was given adequate prior notice of the Vehicle being towed. Werntz stated that he possesses a Zone A Area Parking Permit and that the permit was displayed in the Vehicle at the time it was towed.

The City Parking Enforcement Officer ("Officer") who ordered the Vehicle towed submitted documents into the evidentiary record (Exhibits 5, 6 and 7). The Officer, in Exhibit 5, stated that "barricades were posted and verified more than 24 hours in advance of citation. Barricades were posted at 2:18 pm on Nov 30." Exhibit 5 is a copy of a City Parking Violation. Exhibit 5 indicates that the Vehicle was ordered towed at 8:33 a.m. on

December 3, 2012. Exhibit 7 contains three photographs. One photo shows the Vehicle's license plate. A second photo shows the front of the Vehicle, as confirmed by Werntz, and a temporary no parking sign. A third photo shows a temporary no parking sign restricting parking for 7:30 AM to 10:00 AM Monday with violators having their vehicle cited and towed.

The Hearings Officer takes note of PCC 16.20.800 (Area Parking Permit Program). PCC 16.20.860 A. states, in part, that "an area parking permit does not allow parking in restricted parking zones (16.20.200)."

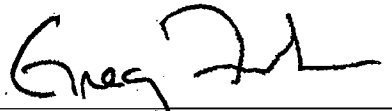
The Hearings Officer finds that temporary no parking signs were placed on SW Madison Street, in the City, at approximately 2:18 p.m. on November 30, 2012. The Hearings Officer finds that the photos on Exhibit 7 accurately reflect the location of the Vehicle and the temporary no parking signs on December 3, 2012. The Hearings Officer finds that the posting of temporary no parking signs created a restricted parking zone for Monday, December 3, 2012 between 7:30 a.m. and 10:00 a.m. at the location where the Vehicle was parked. The Hearings Officer finds that the Zone A Area Parking Permit did not grant Werntz the right to park the Vehicle in the restricted parking zone on SW Madison Street on December 3, 2012. The Hearings Officer finds that more than 24 hours elapsed between the posting the temporary no parking sign and City ordered tow of the Vehicle.

The Hearings Officer finds that the Officer followed the relevant laws/rules and that the City ordered tow of the Vehicle on December 3, 2012 is valid.

ORDER:

1. The City ordered tow of the Werntz Vehicle (1998 Mercedes Benz Oregon license 379 FRQ) on December 3, 2012 is valid; Werntz' tow appeal is denied.
2. All towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: December 17, 2012
GJF: c2/m2



Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 19167

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Werntz, Megan K. and Ryan P.	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	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received