



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF Kenneth W. Tyler

CASE NO. 1120240

DESCRIPTION OF VEHICLE: Volvo 960 (TX DX9R258)

DATE OF HEARING: December 13, 2012

APPEARANCES:

Mr. Kenneth Tyler, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Kenneth W. Tyler ("Tyler") appeared at the December 13, 2012 hearing and testified on his own behalf. 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 Tyler and the documents admitted 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.

Tyler testified that on Saturday, December 1, 2012, he parked his Volvo (Texas license DX9R258 – hereafter the "Vehicle"), in the vicinity of NW 22nd and NW Raleigh in the City. Tyler stated that he did not view the Vehicle until after it was towed on December 5, 2012. Tyler stated that he was unaware that he needed to check his vehicle every 24 hours to avoid the risk of it being towed.

The City Parking Enforcement Officer ("Officer") who ordered the Vehicle towed on December 5, 2012 submitted various documents (Exhibit 5, 6 and 7). The Officer, in Exhibit 5, stated that:

"Barricades were up & verified Monday 12-3-12 @ 5:43 pm more than 24 hrs b4 tow.

See pictures – one barricade next to car and another in front."

Exhibit 6, a copy of a Parking Violation, indicates that the Vehicle was ordered towed at 8:52 a.m. on December 5, 2012. Exhibit 7 has three color photographs of the Vehicle. The photo in the upper left corner of Exhibit 7 shows a temporary no parking sign located in close proximity to the back end of the Vehicle. The photo in the lower right corner of Exhibit 7 shows a temporary no parking sign approximately three car lengths in front of the Vehicle.

The Hearings Officer finds that temporary no parking signs were placed in close proximity to the Vehicle at approximately 5:43 p.m. on December 3, 2012. The Hearings Officer finds that temporary no parking signs were present at approximately 8:52 a.m. on December 5, 2012; the time the Vehicle was ordered towed. The Hearings Officer finds that the Officer followed all relevant laws/rules when ordering the Vehicle towed on December 5, 2012. The Hearings Officer finds that the tow of the Vehicle is valid.

ORDER:

1. The City ordered tow of Tyler's Vehicle (Volvo – Texas license DX9R258) on December 5, 2012 is valid; Tyler's 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: 19353

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Tyler, Kenneth W.	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