



CITY OF PORTLAND

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HEARINGS OFFICER'S ORDER

APPEAL OF Meagan McCaffery

CASE NO. 1120244

DESCRIPTION OF VEHICLE: Mercury Cougar (OR 178CNQ)

DATE OF HEARING: December 14, 2012

APPEARANCES:

Mr. Sean McCaffery, on behalf of Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Sean McCaffery ("McCaffery") appeared at the December 14, 2012 hearing and testified as the authorized representative of the vehicle owner (McCaffery's daughter is the appellant Meagan McCaffery). 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 McCaffery and the documents admitted into the evidentiary record (Exhibits 1 through and including 8).

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.

McCaffery testified that his daughter, the owner of a Mercury Cougar with Oregon license 178 CNQ (the "Vehicle"), frequently travels away from Portland. McCaffery stated that his daughter traveled to

New York two days after Thanksgiving and will not return for another week. McCaffery stated that if the Vehicle registration shown his daughter's address (registration address was listed as McCaffery's) she would not have been aware of the Vehicle being towed. McCaffery stated that if he had not received the Notice of Towed Vehicle it is possible that the Vehicle would have been sold/auctioned by the tow company.

The City Parking Enforcement Officer ("Officer") who ordered the Vehicle towed on December 5, 2012 submitted various documents (Exhibits 5, 6 and 7). Exhibit 5, a Tow Hearing Report, includes the following narrative prepared by the Officer:

"Barricade were up & verified 12/3/12 @ 5:43 p - 24 +. Per picture sign next to back bumper. City ordinance states that a vehicle needs to move every 24 hrs."

Exhibit 6 is a copy of a City Parking Violation. Exhibit 6 indicates that a temporary no parking sign/barricade was placed and verified, in close proximity to the Vehicle, at 5:43 p.m. on December 3, 2012. Exhibit 6 also indicates that the Officer ordered the Vehicle towed at 7:52 a.m. on December 5, 2012. Exhibit 7 contains three color photographs. Each of the photographs shows a view of the Vehicle. Two of the photographs show a temporary no parking sign located immediately adjacent to the rear end of the Vehicle.

The Hearings Officer finds, based upon the evidence in the record, that a temporary no parking sign was placed and verified in close proximity to the Vehicle at 5:43 p.m. on December 3, 2012. The Hearings Officer finds, based upon the evidence in the record, that a temporary no parking sign was located immediately adjacent to the rear end of the Vehicle at the time the Vehicle was ordered towed at 7:52 a.m. on December 5, 2012. The Hearings Officer finds that more than 24 hours elapsed between the placement of the temporary no parking sign, in close proximity to the Vehicle, and the time the City ordered the Vehicle towed. The Hearings Officer finds the Officer followed all relevant laws/rules in ordering the Vehicle towed on December 5, 2012.

The Hearings Officer finds that the City ordered tow of the Vehicle on December 5, 2012 is valid.

ORDER:

1. The City ordered tow of appellant's Vehicle (Mercury Cougar - Oregon license 178 CNQ) on December 5, 2012 is valid; the 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 18, 2012
GJF: c2/m2



Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 19313

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	McCaffery, Meagan	Received
2	Tow Desk printout	McCaffery, Meagan	Received
3	Notice of Hearing	McCaffery, Meagan	Received
4	Statement of Rights and Procedures	McCaffery, Meagan	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation #HA09130939	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Address	Sean McCaffery	Received