



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF CRAIG R. MILLNER

CASE NO. 1120253

DESCRIPTION OF VEHICLE: Honda Prelude (OR BVF215)

DATE OF HEARING: December 27, 2012

### APPEARANCES:

Mr. Craig Millner, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Millner 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. Millner and the documents admitted into evidence (Exhibits 1 through and including 8).

### Summary of Evidence:

Mr. Millner submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on December 3, 2012. Mr. Millner writes that he reported his vehicle stolen on November 9, 2012 and he was told that he would receive a call when his vehicle was located so he could pick it up and avoid a tow. Mr. Millner writes, "I received a call that my car was being towed for abandonment." Mr. Millner indicates that whoever stole his car abandoned it, not him. Mr. Millner testified that he filed a police report on November 9, 2012 and believed that the police would call him when his vehicle was located. Mr. Millner testified that he only received a call when his vehicle was already in the process of being towed.

The City submitted Exhibits 5 through, and including, 8 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report from the Office of Transportation Abandoned Auto Section. The report indicates that Mr. Millner's vehicle was located on November 26, 2012 at 9:00 a.m. and a warning sticker was placed on the vehicle because it lacked a current registration plate or current temporary permit. The report indicates that on December 3, 2012 at 8:15 a.m. the vehicle remained in the same location, with the warning sticker still on the window. A tow was ordered for the vehicle on December 3, 2012. Exhibit 6 is a detailed list of the contacts with the vehicle listed in Exhibit 5. Exhibit 7 is a copy of the citation issued to Mr. Millner when his vehicle was towed. The citation indicates that the vehicle was towed because it was "abandoned". Exhibit 8 contains 3 photos related to the tow of the vehicle. The photos show the vehicle parked on the roadway. The Tow Warning Notice is visible

on the vehicle in the upper left photo. The upper right photo shows that the registration for the vehicle expired in February 2012.

**Applicable Law:**

The Hearings Officer must find a tow is valid if the Hearings Officer finds that 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 16.90.005 defines, for the purposes of towing a vehicle in Portland, the term "abandoned." A vehicle is deemed to be abandoned if the vehicle remains in violation for more than 24 hours and if the vehicle does not have a lawfully affixed, unexpired registration plate, or fails to display current registration or the vehicle appears inoperative or disabled. An "abandoned" vehicle may be towed and stored at the owner's expense if the vehicle is parked in the public right-of-way. (PCC 16.30.210 A.10) A vehicle may be towed 72 hours after notice of intent to tow has been affixed to or placed on the vehicle (PCC 16.30.225 B.).

**Findings of Fact and Conclusions of Law:**

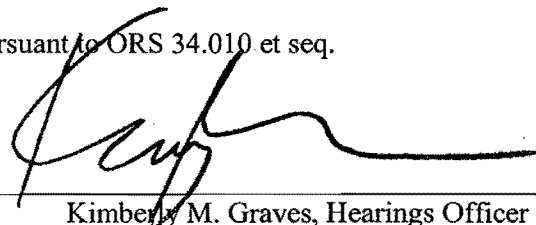
The Hearings Officer finds that that Mr. Millner's vehicle was stolen on November 9, 2012 and was out of his control from that date until it was towed on December 3, 2012. The Hearings Officer finds that Mr. Millner's vehicle was located by a member of the abandoned autos section of the Bureau of Transportation on November 26, 2012 and a Tow Warning Notice was properly affixed to the vehicle because it lacked current registration. The Hearings Officer finds that on December 3, 2012 the vehicle had not moved from where it was located on November 26, 2012 and the vehicle was properly identified as an abandoned auto under the PCC. The Hearings Officer finds that greater than 72 hours passed between when the tow warning notice was affixed to the vehicle and the vehicle was towed. The Hearings Officer finds that the tow of Mr. Millner's vehicle as an abandoned vehicle 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 28, 2012  
KMG:c1/ml



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Abandoned Autos  
Tow Number: 19211

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Millner, Craig R.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Abandoned Autos	Received
6	Tow Detail	Abandoned Autos	Received
7	Parking Violation	Abandoned Autos	Received
8	Photos	Abandoned Autos	Received