

CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF STEVE BARTELSTEIN

CASE NO. 1120260

DESCRIPTION OF VEHICLE: Toyota FJ Cruiser (OR UMP26)

DATE OF HEARING: December 27, 2012

APPEARANCES:

Mr. Steve Bartelstein, Appellant

Officer Debbie Barkley, for the City

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Bartelstein appeared at the hearing and testified on his own behalf. Officer Barkley 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. Bartelstein and Officer Barkley and the documents admitted into evidence (Exhibits 1 through and including 7).

Summary of Evidence:

Mr. Bartelstein submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on December 7, 2012. Mr. Bartelstein writes in Exhibit 1, "I park on this street every night, and never saw leaf cleaning notice, like I'd seen in past. Many neighbors experienced tow as well. My tow (illegible) said his company alone towed 31 cars that morning." Mr. Bartelstein testified at the hearing that he parked his vehicle the evening prior to the tow, and that the temporary no parking sign shown in front of his vehicle in Exhibit 7 was not there when he parked. Mr. Bartelstein testified that he doesn't know whether the sign behind his vehicle was there or not. Mr. Bartelstein testified that he contacted two different towing companies after his vehicle was towed and found that both companies reported towing the largest number of vehicles ever during street sweeping. Mr. Bartelstein testified that the information from the towing companies clearly indicates a problem with the notice provided to vehicle owners.

The City submitted Exhibits 5 through, and including, 7 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report which indicates that Mr. Bartelstein's vehicle was towed on December 7, 2012 at approximately 8:15 a.m. from NW Hoyt for violating a temporary no parking restriction. The narrative portion of the report reads, "Barricades were up & verified 24 hrs+. See pictures - street is fairly clear. Area for sweep was Burnside to Marshall & 16th to 21st Ave. Exhibit 6 is a copy of the parking citation issued to Mr. Bartelstein when

his vehicle was towed. The citation indicates that the temporary no parking signage prohibited parking between "7:30 a.m. and 10:00 a.m. Friday." The comments portion of the citation indicates that the temporary no parking signs were verified on December 5, 2012 at 2:38 p.m. Exhibit 7 contains 3 photos related to the tow of the vehicle. The photos show a temporary no parking sign approximately 2 vehicle lengths behind Mr. Bartelstein's vehicle, and another sign 1 vehicle length in front of Mr. Bartelstein's vehicle. Officer Barkley appeared and testified on behalf of the City. Officer Barkley testified that the vehicle was cited for towing at 8:18 a.m. on December 7, 2012 from NW Hoyt. Officer Barkley testified that the temporary no parking signs were verified on December 5, 2012 at 2:38 p.m. and that 3 photos were taken of the vehicle prior to towing.

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. 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 conspicuously posted restricted space/zone.

Findings of Fact and Conclusions of Law:

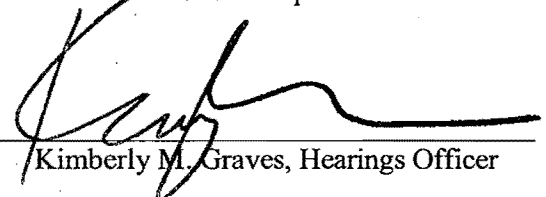
The Hearings Officer finds that on December 5, 2012 at 2:38 p.m. temporary no parking signs were placed on NW Hoyt indicating a temporary parking restriction for December 7, 2012. The Hearings Officer finds that the signs were placed greater than 24 hours prior to the enforcement time listed on the signs. The Hearings Officer finds that on December 7, 2012, during the enforcement time listed on the signs, Mr. Bartelstein's vehicle was parked in the area which was subject to the temporary parking restriction. The Hearings Officer finds that on December 7, 2012 a temporary no parking sign was conspicuously posted next to Mr. Bartelstein's vehicle. The Hearing Officer finds that the parking enforcement officer who ordered the tow of Mr. Bartelstein's vehicle followed the relevant rules/laws in the Portland City Code when making that order. The Hearings Officer finds the tow of Mr. Bartelstein's 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:c2/ml



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 19550

Exhibit #	Description	Submitted by	Disposition
<u>1</u>	<u>Tow Hearing Request Form</u>	<u>Bartelstein, Steve</u>	<u>Received</u>
<u>2</u>	<u>Tow Desk printout</u>	<u>Hearings Office</u>	<u>Received</u>
<u>3</u>	<u>Notice of Hearing</u>	<u>Hearings Office</u>	<u>Received</u>
<u>4</u>	<u>Statement of Rights and Procedures</u>	<u>Hearings Office</u>	<u>Received</u>
<u>5</u>	<u>Tow Hearing Report</u>	<u>Parking Enforcement</u>	<u>Received</u>
<u>6</u>	<u>Parking Violation</u>	<u>Parking Enforcement</u>	<u>Received</u>
<u>7</u>	<u>Pictures</u>	<u>Parking Enforcement</u>	<u>Received</u>