



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF NAM TRAN

CASE NO. 1120263

DESCRIPTION OF VEHICLE: Mercury Villager (OR 225ENJ)

DATE OF HEARING: December 26, 2012

APPEARANCES:

Mr. Nam Tran, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Nam Tran ("Tran") appeared at the scheduled hearing on December 26, 2012. No person appeared at the scheduled hearing to testify on behalf of the City of Portland ("City"). The Hearings Officer makes this decision based upon the testimony of Tran 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.

Tran testified that his Mercury Villager Van (Oregon license 225 ENJ – hereafter referred to as the "Vehicle") was towed on December 14, 2012. Tran stated that when he parked the Vehicle, on December 12, 2012, he saw no "warning" signs in the vicinity. Tran stated, initially, that he could not remember what time, on December 12, 2012, he parked the Vehicle. Later, during his testimony, Tran stated that he thought he parked the Vehicle between 4 and 5 p.m. on December 12, 2012.

The City Parking Enforcement Officer ("Officer") who order the Vehicle towed submitted various documents (Exhibits 5, 6, 7 and 8). The Officer states, in Exhibit 5, that "the barricades were verified in accordance w/ our usual procedures. Placed and verified 2 days in advance, thus meeting the 24 hr rule." The Officer, in Exhibit 5, states that temporary no parking signs were placed in the vicinity of where the Vehicle was parked at 2:26 p.m. on December 12, 2012. Exhibit 5, a copy of a City Parking Violation, indicates that temporary no parking signs were placed in close proximity to the Vehicle at 2:26 p.m. on December 12, 2012 and that the Vehicle was ordered towed by the City at approximately 8:12 a.m. on December 14, 2012. Exhibit 7 is a computer screen-print of a page showing that a temporary no parking sign was placed in the vicinity of the location where the Vehicle was parked at 2:26 p.m. on December 12, 2012.

The Hearings Officer finds that Tran's testimony is generally credible. The Hearings Officer finds that Tran parked the Vehicle on NE Multnomah Street, within the City, on December 12, 2012. The Hearings Officer finds that Tran was uncertain as to the time he parked the Vehicle on December 12, 2012.

The Hearings Officer finds the information contained in Exhibits 5, 6 and 7, supplied by the Officer, is credible. The Hearings Officer finds that Exhibits 5, 6 and 7 indicate the precise time a temporary no parking sign was placed in close proximity to the Vehicle; 2:26 p.m. on December 12, 2012. The Hearings Officer finds that Exhibits 5 and 6 indicate the precise time that the Vehicle was ordered towed from its location on NE Multnomah Street; 8:12 a.m. on December 14, 2012.

The Hearings Officer finds the precise information supplied by the Officer accurately reflects the time a temporary no parking sign was placed in close proximity to the Vehicle. The Hearings Officer finds that more than 24 hours elapsed after the temporary no parking sign was placed in close proximity to the Vehicle and the date/time the Vehicle was ordered towed. The Hearings Officer finds that the Officer followed all relevant laws/rules in ordering the Vehicle towed on December 14, 2012. The Hearings Officer finds that the City ordered tow of the Vehicle is valid.

ORDER:

1. The City ordered tow, on December 14, 2012, of Tran's Vehicle (Mercury Villager Van - Oregon license 225 ENJ) is valid.
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 26, 2012
GJF: c2/m2



Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement
Tow Number: 19979

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Tran, Nam	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	Parking Enforcement Service Requests computer printout	Parking Enforcement	Received
8	Title 16 section	Parking Enforcement	Received