



December 19, 2012

Final Investigative Report Concerning Ombudsman Complaint 2012-0127

COMPLAINT

An Anchorage citizen alleged that on Wednesday, February 29, 2012, he parked his vehicle at Easy Park meter 6174, and tendered payment. When he returned to his vehicle he discovered that Easy Park had issued him a citation (#212001002) for an expired meter. The citizen contested the citation, believing that the meter was defective, and a District Court hearing was scheduled for April, 18, 2012. The citizen showed up for the hearing and was informed that Easy Park had requested that the hearing be cancelled. The citizen believes that he should have been notified by Easy Park that the hearing was cancelled.

FINDINGS

This complaint against Easy Park regarding citation 212001002 is **JUSTIFIED**.

ANALYSIS AND CONCLUSIONS

On March 3, 2012 the citizen wrote Easy Park contesting the citation, and requesting maintenance records and calls for service for the previous twelve months for meter 6174. On March 27th the citizen mailed a "Parking Notice Dismissal During Fur Rondy" card to Easy Park, along with a copy of the citation. A few days later the citizen received from Easy Park notice of a scheduled April 18, 2012 District Court hearing. The notice, bearing a header which read "IN THE DISTRICT COURT FOR THE STATE OF ALASKA AT ANCHORAGE," was dated March 26th and certified by "Scheduling Clerk K. Washington," an Easy Park employee, as having been mailed the same day. However, the notice was actually postmarked March 28th. On April 6th the citizen received from Easy Park a "final" notice of violation, with a \$15.00 late fee added to the original \$20.00 fine.

On April 12th the citizen filed his appearance notice for the April 18th court hearing with the District Court and Easy Park. The citizen showed up for the scheduled April 18th court hearing, only to be informed by the court clerk that Easy Park had cancelled the hearing. The magistrate instructed the court clerk to call Easy Park and verify that they had cancelled the hearing, and request that Easy Park fax relevant documents to the court. Easy Park relayed to the Court that the citation had been voided using the Fur Rondy coupon on March 28th, while documents that were provided to the Ombudsman show that the citation was "modified" on April 17th, a date confirmed by Easy Park in a November 5, 2012 email to the Ombudsman.

Even though the citizen submitted a Fur Rondy parking coupon on March 27th, it was reasonable for him to assume that Easy Park would notify him in a timely manner that they had accepted his submission of the parking coupon and that the citation had been voided and the court hearing cancelled. Easy Park's

April 6th "Final Notice" reinforced the citizen's assumption that the citation was still "live." Indeed, the citizen did not receive mailed notice that the citation had been dismissed using the Fur Rondy coupon until April 19th, the day after the scheduled court hearing.

Because Easy Park calendared and notified the citizen of the April 18, 2012 District Court hearing, and because Easy Park failed to notify the citizen in a timely manner that the coupon had been accepted, the citation voided, and the court hearing cancelled, the Municipal Ombudsman finds this complaint to be JUSTIFIED. A preliminary report regarding this matter was provided to Easy Park, and the agency response was received on December 18, 2012. Based on the investigation of this case, the Municipal Ombudsman recommends the following:

(1) that citizens who request documents, including photos, related to their citation(s) be provided with an Easy Park public information request form, be apprised of any reasonable costs for copying documents, and that the documents be provided in a timely manner; the agency response was that it agreed to this recommendation and stated this recommendation "has become our practice."

(2) that District Court hearing calendar notices sent out by Easy Park add language which makes it clear that the scheduling clerk sending the notices works for Easy Park and not the District Court; the agency response was that it agreed to this recommendation and stated these forms will be changed no later than February 4, 2013.

(3) that the Easy Park "Final Notice" which is sent out after thirty days, adding a \$15.00 late fee, include language informing citizens that they can disregard the notice if they have filed an appeal; the agency response was that it agreed to this recommendation and stated these forms will be changed no later than February 4, 2013.

(4) that the "certify" dates of Easy Park mailed legal notices match the postmarked dates. Easy Park employees are certifying to a mailing date. Because the certified date of the notice may start the clock on the timeline for due process, the certify date and postmark date must match. Instead, Easy Park employees are certifying to mailing the notices on a given date, but the notices are usually postmarked a day or two later. The rule and practice for Easy Park employees performing the certification of mailing should avoid this discrepancy by ensuring the notice is deposited timely within the posted hours of official mail box pickup, or will be delivered to Post Office for postmarking as of the certification date.; the agency response was that it agreed to this recommendation and stated, "{w}e commit to working closely with our mail contractor to ensure the postmark applied to the envelope, matches the date on Easy Park's enclosed notice"

Based on this finding, and these recommendations, this case is closed.

If you object to the Ombudsman's decision to decline or discontinue this investigation or review, you may file a grievance with the Ombudsman as specified in A.M.C.R. 2.60.006.



Darrel W. Hess
Municipal Ombudsman