



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF JAMES PEPION

CASE NO. 1110024

DESCRIPTION OF VEHICLE: Chevrolet Corvette (OR 868ETY)

DATE OF HEARING: March 3, 2011

APPEARANCES:

Mr. James Pepion, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Mr. Pepion appeared at the hearing and testified on his own behalf. No person appeared at the hearing to testify on behalf of the City. Mr. Pepion objected to the admission of Exhibits 8 and 9; photographs. The Hearings Officer admitted Exhibits 8 and 9 into the evidentiary record but noted to Mr. Pepion that the photographs were taken in the evening and relatively little reliance was placed upon Exhibits 8 and 9 by the Hearings Officer in arriving at a decision. The Hearings Officer makes this decision after consideration of the admitted documents (Exhibits 1 through and including 10) – noting once again that Exhibits 8 and 9, photos, provided very little information that could be used in the decision making process.

Mr. Pepion's vehicle was towed on February 14, 2011 by order of a City of Portland Parking Enforcement Officer. The Parking Enforcement Officer indicated that Mr. Pepion's vehicle was towed for violation of Portland City Code ("PCC") section 16.20.210. PCC 16.20.210 states that "No vehicle may park in any no-parking zone at any time." The Hearings Officer also takes note of PCC 16.30.220 B which provides that "Any authorized officer may, without prior notice, order a vehicle towed when the vehicle is illegally parked in a conspicuously posted restricted space, zone or traffic lane..."

Mr. Pepion testified that on February 14, 2011, he parked his vehicle across from a restaurant where he had reservations for dinner. Mr. Pepion stated that when he parked his vehicle he was a bit "rushed" to get to the restaurant. Mr. Pepion stated that he believed that he was parked, on February 14, 2011, in a 2-hour parking zone but as it turned out he was parked about a few inches into a no parking zone. In Mr. Pepion's written submissions requesting this tow hearing he indicated that his vehicle was parked 10-12 inches in the no parking zone (Exhibit 1) and 12-15 inches into the no parking zone (Exhibit 3).

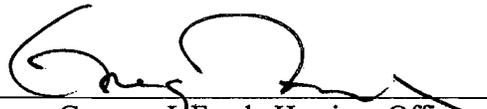
The City of Portland Parking Enforcement Officer who ordered Mr. Pepion’s vehicle towed on February 14, 2011 submitted various documents (Exhibits 6, 7, 8 and 9). Exhibit 6 contains a statement from the Parking Enforcement Officer including the following: “The Chevrolet Corvette OR 868 ETY was parked entirely within NPA zone located on the east side of 21<sup>st</sup> between Glisan and Hoyt.”

The Hearings Officer finds that a decision in this case can be made based entirely upon Mr. Pepion’s statement. The Hearings Officer finds that if any portion of Mr. Pepion’s vehicle was within the No Parking Zone then a violation of PCC 16.20.210 occurred. Mr. Pepion acknowledged, during his testimony and in his written submissions (Exhibits 1 and 3) that a portion of his vehicle was located within the NPA. The Hearings Officer, therefore, finds that Mr. Pepion’s vehicle, on February 14, 2011, was parked partially within a No Parking Zone and was parked in violation of PCC 16.20.210. The Hearings Officer finds that PCC 16.30.220 B permitted the City of Portland Parking Enforcement Officer to order Mr. Pepion’s vehicle towed, without prior notice to Mr. Pepion, on February 14, 2011 for violation of PCC 16.20.210. The Hearings Officer finds the tow of Mr. Pepion’s vehicle on February 14, 2011 is valid.

**ORDER:**

1. The tow of Mr. Pepion’s Chevrolet Corvette (OR 868 ETY) on February 14, 2011 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: March 7, 2011  
 GJF:rs



Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement  
 Tow Number: 2932

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Hearing request letter	Pepion, James	Received
2	Tow Desk printout	Hearings Office	Received
3	Tow Hearing Request Form	Pepion, James	Received
4	Hearing Notice	Hearings Office	Received
5	Statement of Rights and Procedures	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation	Parking Enforcement	Received
8	Photos	Parking Enforcement	Received
9	Photos	Parking Enforcement	Received
10	Address	Pepion, James	Received