



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF MELISSA SCHOENHOLTZ

CASE NO. 1120062

DESCRIPTION OF VEHICLE: Subaru Legacy (OR 260CMW)

DATE OF HEARING: April 19, 2012

APPEARANCES:

None

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Schoenholtz did not appear at the hearing. 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 documents admitted into evidence (Exhibits 1 through and including 10).

### Summary of Evidence:

Ms. Schoenholtz submitted a Tow Hearing Request Form, Exhibit 1, and a type-written note, Exhibit 2, regarding the tow of her vehicle on March 29, 2012. Ms. Schoenholtz writes that there was no warning posted that the car would be towed. Ms. Schoenholtz writes that the only information she received was the citation issued on the date of the tow.

The City submitted Exhibits 5 through, and including, 9a regarding the tow of Ms. Schoenholtz's vehicle. Exhibit 5 is a Tow Hearing Report submitted by the Office of Transportation Abandoned Auto's section. The report indicates that Ms. Schoenholtz's vehicle was located, on March 23, 2012, at 11:15 a.m., parked on the roadway. The report indicates that the vehicle was warned, with a notice on the driver's side window, for appearing inoperative or disabled. The report indicates that there was green moss growing under the vehicle and that the valve stems were at "11/10." The report indicates that on March 29, 2012, at 11:05 a.m. the vehicle was checked again and found to be in the same location. The vehicle was ordered towed at that time. Exhibit 6 is a photo of Ms. Schoenholtz vehicle which clearly shows a tow warning sticker affixed to the driver's side window. The photo has a hand-written notation indicating that the sticker remained on the vehicle on March 29, 2012. Exhibit 9 is a copy of the citation issued to Ms. Schoenholtz on March 29, 2012. Exhibit 9a contains four photos of Ms. Schoenholtz's vehicle prior to towing.

**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:**

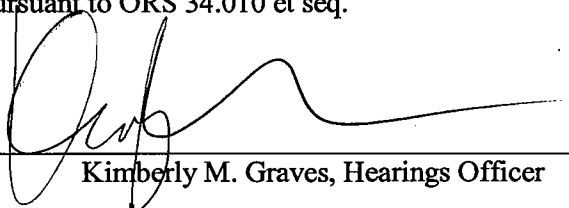
The Hearings Officer finds that on March 23, 2012, Ms. Schoenholtz's vehicle was parked on the roadway at a time when it appeared inoperative or disabled due to the presence of moss growing under the vehicle. The Hearings Officer finds that Ms. Schoenholtz's vehicle remained on the roadway without moving for greater than 24 hours and that the vehicle fit the PCC definition of an abandoned vehicle. The Hearings Officer finds that on March 23, 2012, a tow warning notice was properly attached to Ms. Schoenholtz's vehicle. The Hearings Officer finds that on March 29, 2012, Ms. Schoenholtz's vehicle remained on the roadway and was subject to tow as an abandoned vehicle. The Hearings Officer finds the tow of Ms. Schoenholtz's vehicle to be valid.

**Order:**

Therefore, it is ordered that all towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: May 7, 2012  
KMG: C1/C2

  
Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Abandoned Autos  
Tow Number: 4272

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Schoenholtz, Melissa	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	Photo of Warning Sticker	Abandoned Autos	Received
7	Photo of Wheel Stem	Abandoned Autos	Received
8	Photo of moss	Abandoned Autos	Received
9	Parking Violation #HA11080474	Abandoned Autos	Received
9a	Photos	Abandoned Autos	Received
10	Tow Hearing Request to Reschedule Form	Schoenholtz, Melissa	Received