



**CITY OF**  
**PORTLAND, OREGON**

**OFFICE OF THE CITY AUDITOR**  
**Hearings Office**

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**HEARINGS OFFICER'S ORDER**

**APPEAL OF JANET COLEMAN**

**CASE NO. 1100036**

**DESCRIPTION OF VEHICLE: Nissan Sentra (OR RCQ530)**

**DATE OF HEARING: February 23, 2010**

**APPEARANCES:**

**Ms. Janet Coleman, Appellant**

**HEARINGS OFFICER: Mr. Gregory J. Frank**

Ms. Coleman appeared at the hearing and testified on her own behalf. The Hearings Officer makes this decision based upon the testimony of Ms. Coleman and the documents admitted, without objection from Ms. Coleman, into the evidentiary record (Exhibits 1 through and including 19); the Hearings Officer mistakenly, during the hearing, announced the admission of Exhibits 1 through and including 16).

Ms. Coleman testified that she read the Police Officer reports and was not contesting any of the comments made in those reports (Exhibits 6 and 7). Ms. Coleman stated that the one report indicated that her vehicle, which had been driven by her son the evening it had been towed, did not appear to have been parked in a location that created any danger to itself or other vehicles (Exhibit 7). Ms. Coleman stated, based upon the police reports (Exhibits 6 and 7), that her vehicle had, after being involved in a crash, been pushed towards the side of the road. Ms. Coleman expressed confusion why the vehicle could not have been pushed to a legal parking space. Ms. Coleman also indicated that she has AAA tow rights and if she had been called she would have ordered a AAA tow and avoided the police ordered tow.

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 16.30.220.K.4. This section of PCC Title 16 states that a police officer may order a vehicle towed, without prior notice to the vehicle owner, if the police officer has probable cause to believe that the vehicle's operator was driving while under the influence of intoxicants.

The Hearings Officer finds that there is no dispute that the driver of the vehicle, on February 14, 2010, admitted that he had consumed alcohol prior to being involved in a traffic accident, that he was driving the wrong way on a one-way street, and he had difficulty in performing field sobriety tests. The

Hearings Officer finds that the police officer who ordered Ms. Coleman's vehicle towed, on February 14, 2010, did have probable cause to believe that the driver of Ms. Coleman's vehicle was driving under the influence of intoxicants.

The Hearings Officer also finds that the location where Ms. Coleman's vehicle was parked, prior to being ordered towed on February 14, 2010, was "at an angle on the east side of 11<sup>th</sup> and was partially on the sidewalk." (Exhibit 7). The Hearings Officer finds the location of the vehicle, prior to being ordered towed, created a risk of safety to the vehicle itself and to other vehicles and pedestrians. The Hearings Officer finds that being parked at an angle created a safety risk to other vehicles and to Ms. Coleman's vehicle. The Hearings Officer finds that the vehicle being partially parked on the sidewalk created a risk to pedestrians.

The Hearings Officer finds that the police officer who ordered Ms. Coleman's vehicle towed on February 14, 2010 followed the relevant laws/rules. The Hearings Officer finds that the tow of Ms. Coleman's vehicle on February 14, 2010 is valid.

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: February 23, 2010

GJF:cb/rs

  
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Gregory J. Frank, Hearings Officer

Bureau: Police  
Tow Number: 2919

Enclosure

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Letter	Coleman, Janet	Received
2	Tow desk printout	Coleman, Janet	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	DMV Oregon Police Traffic Crash Report	Police Bureau	Received
6	Traffic Crash Report Narrative	Police Bureau	Received
7	Custody Report	Police Bureau	Received
8	Field Sobriety Test Report	Police Bureau	Received
9	DUII Interview Report	Police Bureau	Received
10	DMV Implied Consent	Police Bureau	Received
11	Intoxilyzer 8000 Operator's Checklist	Police Bureau	Received
12	Breath Test Report	Police Bureau	Received
13	Notice of Impoundment	Police Bureau	Received
14	Photos (2 pgs)	Police Bureau	Received
15	Towed vehicle record	Police Bureau	Received
16	LEDS data printout (2 pgs)	Police Bureau	Received
17	Formal Hold	Police Bureau	Received
18	Copy of Janet Coleman's driver's license (photo mostly illegible)	Police Bureau	Received
19	Vehicle release	Police Bureau	Received