



**CITY OF**  
**PORTLAND, OREGON**  
**OFFICE OF THE CITY AUDITOR**  
**Hearings Office**

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**HEARINGS OFFICER'S ORDER**

**APPEAL OF FELICIA MAURIN**

**CASE NO. 1100045**

**DESCRIPTION OF VEHICLE: BMW 750i (OR SL67366)**

**DECISION WITHOUT PERSONAL APPEARANCE**

**HEARINGS OFFICER: Ms. Christina A. Austin-Smith**

Ms. Maurin did not appear at a hearing, but instead requested by letter dated March 5, 2010, that a decision on her appeal be made without appearance. The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes Exhibits 1 through and including 11, that the Hearings Officer finds relevant to this case.

Ms. Maurin mailed a request for hearing letter, along with reasons why she felt the tow was invalid, dated March 4, 2010, to the City of Portland Hearings Office (Exhibit 1). Attached to this letter was a copy of her towing invoice and photos of the location where her car was towed from on March 2, 2010 (Exhibits 2 and 3). Ms. Maurin requested a decision without her personal appearance by letter dated March 5, 2010, because she was scheduled to be out of the country on business travel until July 3, 2010 (Exhibit 10). In this second letter she restated reasons why she felt the tow action was not valid and again enclosed photos of the location from where her car was towed (Exhibit 11).

Ms. Maurin explained that she parked her car on NW Glisan between 21<sup>st</sup> and 22<sup>nd</sup> on Tuesday, March 2, 2010, at 8:20 p.m. She parked in front of a garage owned by Silver Dollar Pizza on the corner of NW Glisan and 21<sup>st</sup>; however, she argues the signage at the time was misleading. According to Ms. Maurin, and as supported by the photos she submitted, there was a No Parking Loading Zone sign pointing to the location where she parked her car, however, the sign indicates the loading zone hours are 7 a.m. until 6 p.m., Monday through Friday. Ms. Maurin states she spoke with the manager of Silver Dollar Pizza and was told that the garage had just recently been completed and that the restaurant planned to ask the city to remove the misleading loading zone sign. Ms. Maurin contends she was misled by the loading zone sign, which seemingly governed the hours when that was not a valid space, and that no other signs indicated she could not park in front of the garage.

A towing hearing report submitted by Parking Enforcement Officer J. Flett (Exhibit 7) indicates a complaint was received to tow a vehicle at 9:21 p.m. on March 2, 2010. Specifically, the officer writes: "I received a tow request from Silver Dollar Pizza to tow a vehicle blocking their driveway. Upon arrival I observed a Oregon BMW SL67366 with a expiration of 10/09 blocking the garage. I took two pictures showing the blocked garage." In addition, Officer Flett wrote up a parking violation citation for violation of 16.20.130-V, blocked driveway (Exhibit 8). The photos taken by Officer Flett show the listed vehicle on the street and perpendicular to a partially-opened garage door (Exhibit 9). No signs are visible in his photos.

The Hearings Officer must find a tow is valid if 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 16.20.130 lists specific areas where parking is prohibited. PCC 16.20.130V is "in front of any portion of a driveway ingress/egress to the public right-of-way." PCC 16.30.210A2 permits a vehicle to be towed when it is parked unlawfully or in a manner that may be hazardous to traffic. PCC 16.20.220B permits a tow without prior notice when the vehicle is illegally parked "at any time and place the vehicle is interfering or reasonably likely to interfere with the intended use of such a space."

Arguably, the fact that Ms. Maurin's car was parked in a driveway put it in violation of City Code and it could be validly towed. However, equity demands that all the facts be considered in this case before issuing a final decision.

PCC 16.20.205 governs enforcement of regulated parking zones. Section C states that a truck loading zone is in effect during the days and times shown on the sign. Additionally, Section D states that for a parking sign which has an arrow, the direction in which the head of the arrow points is the direction that the regulation is in effect.

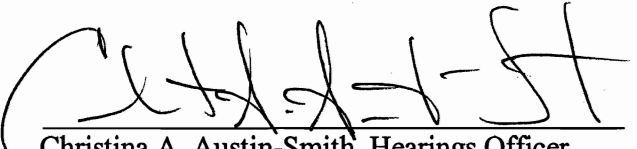
The photos submitted by Ms. Maurin clearly indicate her vehicle parked behind the garage, and presumably the driveway, but they also clearly indicate a designated truck loading zone sign from 7 a.m. until 6 p.m., with an arrow in the direction of where her car was parked.

In this case, the hearings officer finds that while Ms. Maurin's car was in violation of PCC 16.20.130V because it was parked in front of a driveway, Ms. Maurin's belief, based on the posted signage at the time that it was a valid parking spot during the hours she parked there to be completely reasonable. The time of the citation and records of the towing times (Exhibit 4) are consistent with Ms. Maurin's contention that she parked in the spot at 8:20 p.m., which would have been over two hours from when the loading zone prohibition was in effect. Because of the signage, the hearings officer finds it to be a reasonable belief by Ms. Maurin that the garage was only used for loading and unloading purposes during designated hours.

The owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

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

Dated: March 19, 2010  
CAAS:rs

  
Christina A. Austin-Smith, Hearings Officer

Bureau: Parking Enforcement  
Tow Number: 3991

Enclosure

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 3 weeks.

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Hearing request letter	Maurin, Felicia	<u>Received</u>
2	Tow Invoice	Maurin, Felicia	<u>Received</u>
3	Photos	Maurin, Felicia	<u>Received</u>
4	Tow Desk printout	Hearings Office	<u>Received</u>
5	Hearing Notice	Hearings Office	<u>Received</u>
6	Tow Hearings Process Info. sheet	Hearings Office	<u>Received</u>
7	Tow Hearing Report	Parking Enforcement	<u>Received</u>
8	Parking Violation	Parking Enforcement	<u>Received</u>
9	Photos	Parking Enforcement	<u>Received</u>
10	Request for decision without appearance	Maurin, Felicia	<u>Received</u>
11	Photos	Maurin, Felicia	<u>Received</u>