

# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

1900 SW 4<sup>th</sup> Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: [www.portlandoregon.gov/auditor/hearings](http://www.portlandoregon.gov/auditor/hearings)



## HEARINGS OFFICER'S ORDER

APPEAL OF MADELEINE GIRARDIN SCHUBACK

CASE NO. 1120047

DESCRIPTION OF VEHICLE: Toyota RAV4 (OR 774CHR)

DATE OF HEARING: April 19, 2012

### APPEARANCES:

Ms. Madeleine Girardin Schuback, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Schuback appeared at the hearing and testified on her own behalf. 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 testimony of Ms. Schuback and the documents admitted into evidence (Exhibits 1 through and including 9).

### Summary of Evidence:

Ms. Schuback submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on March 21, 2012, from SE Division. Ms. Schuback writes in Exhibit 1 that the parking on the street is not clearly marked for unaware drivers to notice. Ms. Schuback writes that the signs are small and are at the ends of the parking area. Ms. Schuback writes that the signs are not noticeable when parking in the middle of the block. Ms. Schuback writes that she was in the area for a school field trip and parked in the middle of the block to accompany students to local stores. Ms. Schuback appeared at the hearing and testified consistent with her written statement in Exhibit 1. Ms. Schuback added that she did not know about the signage and did not see it because of bad weather. Ms. Schuback suggested that bigger signs or curb paint may be appropriate to help drivers to notice the restriction.

The City submitted Exhibits 5 through, and including, 7 regarding the tow of Ms. Schuback's vehicle. Exhibit 5 is Tow Hearing Report indicating that Ms. Schuback's vehicle was towed on March 21, 2012, at approximately 5:00 p.m. The narrative portion of the report indicates that the vehicle was cited and towed as part of the daily routine patrol of the area. The report indicates that there are 3 signs on the block. The report further indicates that Ms. Schuback would have had to drive past 2 signs to park in the space that her vehicle was towed from. Exhibit 6 is a copy of the citation issued to Ms. Schuback when her vehicle was towed. Exhibit 7 contains 3 photos of the area where Ms. Schuback's vehicle was parked. The photos show a No Parking sign indicating that parking is

prohibited between 4p-6p Monday through Friday. The upper left photo shows that Ms. Schuback's vehicle is parked approximately 1-2 car lengths past the no parking sign.

The Hearings Officer concluded that a site view would be helpful in determining whether the signage on the block was conspicuously posted. The Hearings Officer conducted a site view of the location on April 20, 2012. In conducting the site view, the Hearings Officer drove both East and West on Division Street between approximately 19<sup>th</sup> and 24<sup>th</sup>. The Hearings Officer noted that all of the blocks in the area contain signage indicating that parking is prohibited during certain hours. The Hearings Officer noted that the signs can be found on designated posts, and on telephone/light posts. The Hearings Officer noted that each block contains at least 3 visible signs, while some blocks appear to contain more than 3 signs.

**Applicable Law:**

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. 16.30.210A1 provides that a vehicle may be towed and held at the expense of the owner from any public right-of-way when the vehicle is parked in violation of a permanent parking restriction. PCC 16.30.220B permits any authorized officer to tow a vehicle without prior notice when the vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane.

**Findings of Fact and Conclusions of Law:**

The Hearings Officer finds that on March 21, 2012, at approximately 5:00 p.m., Ms. Schuback's vehicle was parked on SE Division Street in an area which had a permanent parking restriction prohibiting parking between 4:00 p.m. and 6:00 p.m. The Hearings Officer finds that the zone was conspicuously posted with three signs on the block face. The Hearings Officer finds the tow of Ms. Schuback's vehicle to be valid.

**Order:**

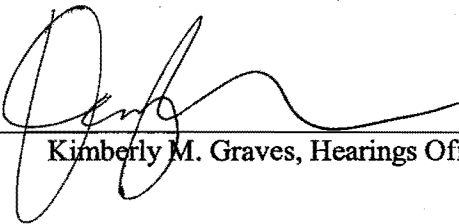
Therefore, it is ordered that all towing and storage charges against the vehicle, and an administrative fee, if applicable, shall remain the responsibility of the appellant.

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

Dated: May 8, 2012

KMG:rs

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement  
Tow Number: 4809

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Schuback, Madeleine Girardin	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	Parking Enforcement	Received
6	Parking Violation #HA10883689	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Request to Reschedule Form	Schuback, Madeleine Girardin	Received
9	Notice of Hearing	Hearings Office	Received