



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

### APPEAL OF ALICE AVERY

CASE NO. 1120056

DESCRIPTION OF VEHICLE: Kia Rio (WA AEY3543)

DATE OF HEARING: April 17, 2012

### APPEARANCES:

Alice Avery, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Avery 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. Avery and the documents admitted into evidence (Exhibits 1 through and including 7).

### Summary of Evidence:

Ms. Avery submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on March 31, 2012, from NW 3<sup>rd</sup> and Couch. Ms. Avery writes that she was parked in a police parking only zone, but "the sign was not visible." Ms. Avery writes that there was a non-police car parked in the rear most spot and a police car parked in the front most spot. Ms. Avery writes that she parked in the middle and did not see the signs which were on the ends of the spaces. Ms. Avery also submitted a photo/diagram, Exhibit 2, in which she shows the area where she parked and the signage in the area. Ms. Avery appeared at the hearing and testified consistent with her statement in Exhibit 1. Ms. Avery testified that there was not a sign next to the middle parking space, where she was parked, and she did not see the signs at the ends of the other spaces.

The city submitted Exhibits 6 and 7 regarding the tow of Ms. Avery's vehicle. Exhibit 6 is an Investigation Report written by Officer Gahan which indicates that the officer was on foot patrol when he observed Ms. Avery's vehicle parked in a police parking only zone. The report indicates that there were no occupants in the vehicle, and that he requested a tow per PCC 16.30.220. Exhibit 7 is a Towed Vehicle Record indicates that the vehicle was towed for being in a no parking area.

**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:**

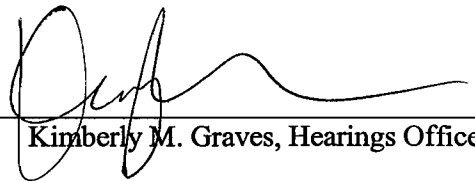
The Hearings Officer finds that on March 31, 2012, Ms. Avery parked her vehicle in a zone which was reserved for police vehicles only. The Hearings Officer finds that the zone was conspicuously posted with two no parking signs for three parking spaces. The Hearings Officer finds the tow of Ms. Avery's 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 8, 2012  
KMG:rs/C2




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Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police  
Tow Number: 5430

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Avery, Alice	Received
2	Photo	Avery, Alice	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Notice of Rights and Procedures	Hearings Office	Received
6	PPB Investigation Report	Police Records	Received
7	Towed Vehicle Record	Police Records	Received