

# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF ADAM CAHILL

CASE NO. 1120063

DESCRIPTION OF VEHICLE: Mitsubishi Galant (OR 086FJF)

DATE OF HEARING: April 19, 2012

APPEARANCES:

Mr. Adam Cahill, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Cahill appeared at the hearing and testified on his 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 Mr. Cahill and the documents admitted into evidence (Exhibits 1 through and including 9).

### Summary of Evidence:

Mr. Cahill submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of his vehicle on April 10, 2012. Mr. Cahill writes, "I feel that the tow was invalid because the paint on the street was not the reflective yellow that the city uses (it looked like the neighbor painted it), and I was not blocking the driveway. I was parked more than five feet from the driveway." Mr. Cahill appeared at the hearing and testified that he did not believe that the paint on the curb and the roadway was from the City. Mr. Cahill submitted Exhibit 9, photos, to show the various paint markings on the roadway.

The City submitted Exhibits 6 through, and including, 8 for the Hearings Officer's consideration. Exhibit 6 is a Tow Hearing Report which indicates that Mr. Cahill's vehicle was towed on April 10, 2012, for the violation of "driveway." The narrative portion of the report reads, "This Tow was done on a SR. This street is very narrow so the extra space is needed to back out of the DW. My photo shows (sic) the veh rear is into the DW even without the yellow curb. City uses reflective tape as well as yellow paint. Driver admits to seeing the Yellow curb. It is a city approved YC." Exhibit 7 is a copy of the parking citation issued to Mr. Cahill on April 10, 2012. Exhibit 8 contains two photos of Mr. Cahill's vehicle prior to towing. One photo shows the license plate of the vehicle. The other photo shows the rear of the bumper in relation to the driveway. A line has been drawn on the photo to show that the rear bumper of the vehicle was parked within the apron of the driveway.

**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. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.20.130 V., PCC 16.30.220B and PCC 16.90.105. PCC 16.20.130 V states that it is unlawful to park or stop a vehicle in front of any portion of a driveway ingress/egress to the public right-of-way. PCC 16.90.105 defines a "driveway" for the purposes of Title 16. In summary, PCC 16.90.105 defines a "driveway" as an access extending from a public right-of-way onto private or public lands for the purpose of gaining vehicular access to such areas and reasonably designated at the property line so as to be an obvious open for access. For the purposes of enforcement a driveway extends from one curb return to the other and if winged, includes the wings. PCC 16.30.220 A permits a vehicle to be towed without prior notice and stored, at the owner's expense, when the vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic.

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

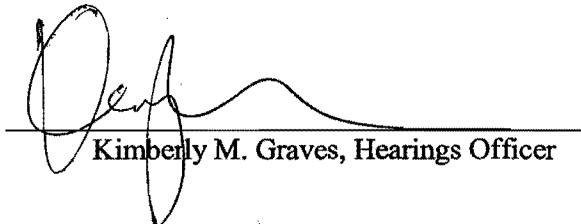
The Hearings Officer finds that on April 10, 2012, Mr. Cahill's vehicle was parked next to the apron of a driveway, and blocking access to the apron portion of the driveway. The Hearings Officer finds that a driveway owner has a right to full access of their driveway, and the placement of Mr. Cahill's vehicle impeded the flow of vehicular traffic into and out of the driveway. The Hearings Officer finds the tow of Mr. Cahill'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:rs



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement  
Tow Number: 5999

| Exhibit # | Description                     | Submitted by        | Disposition |
|-----------|---------------------------------|---------------------|-------------|
| 1         | Tow Hearing Request Form        | Cahill, Adam        | Received    |
| 2         | Photos                          | Cahill, Adam        | Received    |
| 3         | Tow Desk printout               | Hearings Office     | Received    |
| 4         | Hearing Notice                  | Hearings Office     | Received    |
| 5         | Notice of Rights and Procedures | Hearings Office     | Received    |
| 6         | Tow Hearing Report              | Parking Enforcement | Received    |
| 7         | Parking Violation #HA10942960   | Parking Enforcement | Received    |
| 8         | Photos                          | Parking Enforcement | Received    |
| 9         | Photo set                       | Cahill, Adam        | Received    |