



# 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 JULIANA WHEELER

CASE NO. 1120103

DESCRIPTION OF VEHICLE: Volkswagen Jetta  
(No Plates, VIN #3VWRC81H8SM071235)

DATE OF HEARING: June 21, 2012

### APPEARANCES:

Ms. Juliana Wheeler, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Wheeler 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. Wheeler and the documents admitted into evidence (Exhibits 1 through and including 18).

### Summary of Evidence:

Ms. Wheeler submitted a Tow Hearing Request Form, Exhibit 1, and a type-written letter regarding the tow of her vehicle on May 30, 2012 from NW Slavin Rd. Ms. Wheeler writes in her letter that prior to towing her car was parked near the dead end of SW Slavin Rd where she lives. Ms. Wheeler writes that she has been parking in the same area for many months and that there has never been any issue. Ms. Wheeler writes that there are no "no parking" signs in the area and that the street is wide enough for traffic to pass through even with cars parked on both sides of the roadway. Ms. Wheeler also submitted a letter from the apartment manager for the building where she lives, Exhibit 3. The letter indicates that residents routinely park in the area where Ms. Wheeler's vehicle was parked prior to towing. Ms. Wheeler appeared at the hearing and submitted 5 photos, Exhibit 18, which show the area where her vehicle was parked prior to towing. Ms. Wheeler testified that her vehicle was parked in the same location as the grey/tan colored Toyota Camry shown in the photos. The photo shows a grey/tan vehicle parked along the right side of the roadway. The vehicle is parked such that the wheels on the driver's side are on the roadway, and the wheels on the passenger side are in the dirt beside the road. The vehicle appears to be parked near a bend in the road. In front of Ms. Wheeler's vehicle, approximately 7-8 car lengths is a street sign which reads "Street Closed Ahead". Under the street closure sign is a No Parking sign with an arrow pointing away from Ms. Wheeler's vehicle.

The city submitted Exhibits 7 through, and including, 17 regarding the tow of Ms. Wheeler's vehicle. Exhibit 7 is a Towed Vehicle Record showing that the vehicle was towed because it was a hazard. Exhibits 8 through, and including, 15 appear to relate to ownership issues for the vehicle which were dealt with by the police bureau when the vehicle was released. Exhibits 8 through, and including, 15 are not directly related to the tow of the vehicle. Exhibit 16 is an Investigation Report which reads:

"we have received complaints of parking issues from the nearby apartments around the 5100 Block of SW Slavin Rd. While enforcing the parking laws of the area, the above vehicle was parked partially into the SB traffic lane of SW Slavin Rd."

The report from the officer does not contain any photos taken of the vehicle prior to towing. Exhibit 17 is a Notice of Tow form again indicating that the vehicle was a hazard.

**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 16.20.120 Q, PCC 16.30.210 A.2 and PCC 16.30.220 A and D. PCC 16.20.120 Q states that it is unlawful to park or stop a vehicle in a manner that creates a traffic hazard impeding the safe movement of vehicular or pedestrian traffic. PCC 16.30.210 A.2 states that a vehicle may be towed and held at the expense of the owner or person entitled to possession thereof if the vehicle is in the public right-of-way and the vehicle is parked/stopped unlawfully in a manner that may be hazardous to traffic. PCC 16.30.220 A authorizes a police officer to order a vehicle towed, without prior notice, if the vehicle is impeding or likely to impede the normal flow of vehicular traffic.

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

The Hearings Officer finds that on May 30, 2012 Ms. Wheeler's vehicle was parked on SW Slavin Rd. The Hearings Officer finds, based on the officer's written report and the photos submitted by Ms. Wheeler, that the vehicle was parked in a manner which created a hazard for other vehicle's and/or pedestrians using the roadway. The Hearings Officer finds that Ms. Wheeler's vehicle, as parked, impeded or was likely to impede the normal flow of vehicular or pedestrian traffic. The Hearings Officer finds the tow of Ms. Wheeler's vehicle is valid.

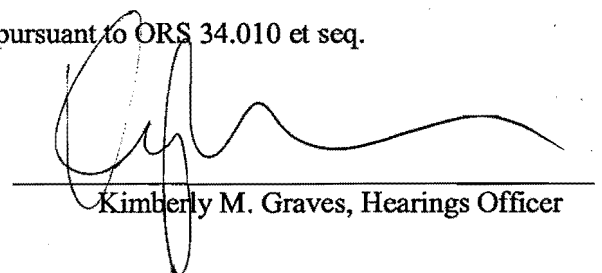
**Order:**

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: June 22, 2012  
KMG:c1/c2

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Police  
Tow Number: 8673

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Wheeler, Juliana	Received
2	Letter	Wheeler, Juliana	Received
3	Letter from Tony Swank	Wheeler, Juliana	Received
4	Tow Desk printout	Hearings Office	Received
5	Hearing Notice	Hearings Office	Received
6	Notice of Rights and Procedures	Hearings Office	Received
7	Towed Vehicle Record	Police Records	Received
8	LEDS printout	Police Records	Received
9	5/30/12 E-mail	Police Records	Received
10	Oregon Driver License	Police Records	Received
11	Towed Vehicle Record Comments	Police Records	Received
12	Oregon State Vehicle Order	Police Records	Received
13	Secure Odometer Disclosure/Reassignment	Police Records	Received
14	Oregon Driver License	Police Records	Received
15	Vehicle Release	Police Records	Received
16	Investigation Report	Police Records	Received
17	Notice of Tow	Police Records	Received
18	Photos	Wheeler, Juliana	Received