



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF Susan Caudle

CASE NO. 1120155

DESCRIPTION OF VEHICLE: Toyota Venza (SD 44JCY6)

DATE OF HEARING: September 11, 2012

### APPEARANCES:

Susan Caudle, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

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

### Summary of Evidence:

Ms. Caudle submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on September 4, 2012. Ms. Caudle writes that she believes the tow of her vehicle is invalid because the signage for the area where she parked was not visible due to being placed 12-15 feet above street level and being blocked by tree branches. Ms. Caudle indicates in Exhibit 1 that photos will be provided of the area at the hearing. Ms. Caudle appeared at the hearing and testified that a tree was blocking the sign which indicated that the area was a truck loading zone. Ms. Caudle testified that there was no paint on the ground to indicate where the truck loading zone started and ended. Additionally, Ms. Caudle testified that the security guard for the building was "surprised" when she told him that her vehicle was towed. Mr. Caudle testified that he did not see any paint on the ground either, and instead only saw yellow paint on the curb outside of the truck loading zone. Mr. Caudle testified that the height of the sign made it unlikely to be seen by drivers and that it needs to be at eye level. Ms. Caudle presented a hand-written document and a number of corresponding photos at the hearing for the Hearings Officer's consideration. (Exhibits 8 and 9) The first 3 photos show Ms. Caudle standing next to a variety of signs to demonstrate that other signs in the area are posted at a more visible height. The next photo (4<sup>th</sup>) shows the sign at the westernmost point of the truck loading zone. The next photos (5<sup>th</sup> and 6<sup>th</sup>) show the length of the truck loading zone, and show a gas meter attached to a building, which is next to where Ms. Caudle indicates her vehicle was parked. The final 2 photos show the truck loading zone sign which Ms. Caudle indicates was not visible to her

when her vehicle was parked. The photos are taken from the curb side of the vehicle, and show Ms. Caudle standing under the sign.

The City submitted Exhibits 5 through, and including, 7 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report submitted by the Office of Transportation Parking Enforcement Division. The report indicates that Ms. Caudle's vehicle was towed on September 4, 2012 from NW Davis St. The report indicates that the parking enforcement officer was on routine patrol when he located vehicles parked in a truck loading zone. The report indicates that there were 2 vehicles parked in the zone, and that the parking enforcement officer ordered both vehicles towed. The report indicates that there are 2 signs for the zone, and that there are also paint markings on the street designating the edges of the zone. Exhibit 6 contains a copy of the citation issued to Ms. Caudle at the time of the tow. Exhibit 7 contains 4 photos related to the tow of Ms. Caudle's vehicle. The upper right hand photo shows the truck loading zone signs seen in Exhibit 9 submitted by Ms. Caudle. The photo is taken from the driver's side of the vehicle, and shows the sign unobstructed by tree branches.

**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. PCC 16.20.220B provides that only the following vehicles, while being actively loaded or unloaded, may park in a truck loading zone for no more than 30 minutes: 1. A truck ; 2. A vehicle defined by its DMV registration as a truck, van, or pick-up that exhibits the commercial nature of the vehicle; 3. A passenger or other vehicle with an official commercial loading permit; 4. Any vehicle with Farm Vehicle registration plates; 5. Taxicabs. PCC 16.30.210A1 permits a vehicle to be towed if it is parked in violation of a temporary or permanent parking restriction. 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 Ms. Caudle's vehicle is a passenger vehicle and is not permitted under PCC 16.20.220B to park in a truck loading zone. The Hearings Officer finds that on September 4, 2012 Ms. Caudle's vehicle was parked in a truck loading zone in violation of permanent posted signage. The Hearings Officer finds that the presence of Ms. Caudle's vehicle in the truck loading zone impeded the normal flow of vehicular traffic into and out of the zone. The Hearings Officer finds the tow of Ms. Caudle's vehicle to be valid.

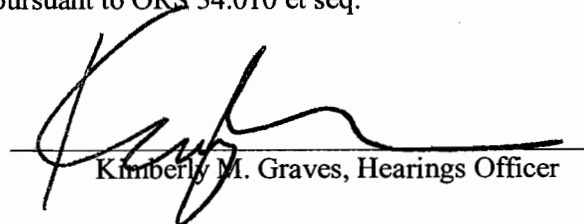
**Order:**

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: September 12, 2012  
KMG:c2/m2

Enclosure



Kimberly M. Graves, Hearings Officer

Bureau: Parking Enforcement  
Tow Number: 13686

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Caudle, Susan	Received
2	Tow Desk printout	Hearings Office	Received
3	Notice of Hearing	Hearings Office	Received
4	Statement of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation #HA08508804	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Notes	Caudle, Susan	Received
9	Photos	Caudle, Susan	Received