



# 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 LINDSEY KARCH

CASE NO. 1120158

DESCRIPTION OF VEHICLE: Honda Fit (WA ACJ9267)

DATE OF HEARING: September 20, 2012

APPEARANCES:

Lindsey Karch, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Karch 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. Karch and the documents admitted into evidence (Exhibits 1 through and including 11).

### Summary of Evidence:

Ms. Karch submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on September 9, 2012. Ms. Karch indicated that she believes the tow of her vehicle is invalid because "I was instructed to park there by event coordinators (along with several other driver's (sic) Two lanes of Marine Dr. had been blocked off with cones, which is where we were told to park; a reasonable person could conclude that it was an authorized parking area." Ms. Karch appeared at the hearing and testified that she was attending a festival and was told by festival staff that she needed to move her car. Ms. Karch testified that she moved her vehicle to Marine Dr in an area that was blocked off with cones. Ms. Karch testified that there were numerous other cars parked in the same area. Ms. Karch testified that when she returned to her car she found that it had been towed, along with the other cars that were parked in the same area. Ms. Karch testified that the cones that were blocking off the area when she parked were gone when she returned. Ms. Karch submitted a document, Exhibit 11, which she printed from the "Hempstalk 2012" website which reads "We have also been approved by the Bureau of Transportation to close two lanes on Marine Drive. The suggested donation for on-street parking will be \$5.00 per car, we have flaggers and volunteers to greet you."

The City submitted Exhibits 5 through, and including, 10 for the Hearings Officer's consideration. Exhibit 5 is a Towed Vehicle record showing that Ms. Karch's vehicle was towed because it was a hazard. Exhibits 6 and 7 related to the release of the vehicle and are unrelated to the basis for the tow. Exhibit 8 is an Investigation report

from the Portland Police Bureau. The report indicates that Ms. Karch's vehicle was towed on September 9, 2012 from N. Marine Dr and N. Pacific Gateway Blvd. The report indicates that numerous vehicles were parked at an angle into the "south curb line" of N Marine Dr.. The report indicates that Ms. Karch's vehicle "blocked the eastbound bicycle lane and the #2 south side eastbound traffic lane." The report further indicates that the vehicle "caused congestion and created a danger to bicycles riding eastbound by forcing them into the middle of the #1 eastbound lane." Exhibit 9 is a copy of the parking citation issued to Ms. Karch on September 9, 2012, and Exhibit 10 is a hand-drawn diagram of the area where Ms. Karch's vehicle was parked.

The Hearings Officer determined at the time of the hearing that conflicting information was presented which warranted follow-up by the Hearings Officer. Based on the information in Exhibit 11, it appeared possible that a permit was issued by the Bureau of Transportation but that the police bureau was not informed of the permit. The Hearings Officer noted that if the information in Exhibit 11 was correct, then the tow of Ms. Karch's vehicle may not be valid. The Hearings Officer indicated at the hearing that she would like to contact the Bureau of Transportation to determine whether a permit was issued for the Hempstalk festival to close any portion of N Marine Drive. Ms. Karch agreed that the Hearings Officer could contact the Bureau of Transportation for the purpose of determining whether a parking permit was issued.

On September 21, 2012 this Hearings Officer contacted the Bureau of Transportation regarding whether any parking permits for N. Marine Dr. were issued for Hempstalk. This Hearings Officer spoke with Ms. Gregory at the Bureau of Transportation who indicated that an application for a parking permit was submitted by someone on behalf of Hempstalk. Ms. Gregory indicated that she would send the permit to the Hearings Officer via email. A short time later, this Hearings Officer received a voicemail message from Ms. Gregory. The message from Ms. Gregory indicated that while a permit request was submitted, and approved by the city, no one ever paid for the permit or picked it up from the city, and therefore the permit was never actually issued for parking during the Hempstalk festival.

#### **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. 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.

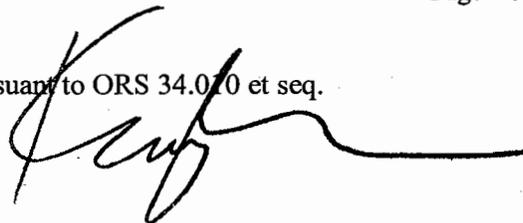
#### **Findings of Fact and Conclusions of Law:**

The Hearings Officer finds that no permit was issued to the Hempstalk festival which would allow parking on N. Marine Dr. during the festival. The Hearings Officer finds that Ms. Karch's vehicle, on September 9, 2012, was parked on N. Marine Dr. in a manner which blocked the bicycle lane and a portion of the lane of travel. The Hearings Officer finds that the manner in which Ms. Karch's vehicle was parked created a hazard for bicycles and vehicles on the roadway and impeded the normal flow of vehicular traffic. The Hearings Officer finds that the tow of Ms. Karch's vehicle on September 9, 2012 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 34.070 et seq.



Dated: September 21, 2012  
 KMG:c1/ml

Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Police  
 Tow Number: 13961

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Karch, Lindsey	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	Washington Driver License	Police Records	Received
7	Vehicle Release	Police Records	Received
8	Investigation Report	Police Records	Received
9	Parking Violation	Police Records	Received
10	Diagram	Police Records	Received
11	Hempstalk 2012 directions	Karch, Lindsey	Received