



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF Susan Archibald

CASE NO. 1120161

DESCRIPTION OF VEHICLE: Acura 3.5 RL (OR 889 EPL)

DATE OF HEARING: September 20, 2012

### APPEARANCES:

Susan Archibald, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Archibald 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. Archibald and the documents admitted into evidence (Exhibits 1 through and including 9).

### Summary of Evidence:

Ms. Archibald submitted a Tow Hearing Request Form, Exhibit 2, regarding the tow of her vehicle on September 11, 2012. Ms. Archibald indicated on the form that she believes the tow of her vehicle is invalid because "Violation on Contract Tow Invoice conflicts with violation on Order to Tow Vehicle." Ms. Archibald attached, as Exhibit 3, a document which contains copies of 2 separate documents. Exhibit 3 contains a copy of an "Order to Tow Vehicle" from the District Court of the State of Oregon which indicates that the vehicle was towed because it was in a "Res Zone." Exhibit 3 also contains a "Contract Tow Invoice" which shows the type of tow to be "Pro Time." Ms. Archibald indicated at the hearing that she found this discrepancy to be significant. When asked about the violation of being parked in a reserved zone, Ms. Archibald indicated that she "didn't see the sign", but the photos show it clearly.

The city submitted Exhibits 7 through, and including, 9 regarding the tow of Ms. Archibald's vehicle. Exhibit 7 is a Tow Hearing Report indicating that the vehicle was towed on September 11, 2012 from the east side of NW 19<sup>th</sup> for the violation of being parked in a reserved zone. The narrative portion of the report indicates that the vehicle was parked in a "clearly posted . . . car share space." Exhibit 8 is a copy of the citation issued to Ms. Archibald on September 11, 2012 for the violation of PCC 16.20.280B. Exhibit 9 shows 4 photos related to the tow of Ms.

Archibald's vehicle. The photos show the vehicle parked next to a sign which reads "Permitted car share vehicles only all hours all days." The photos show the sign next to the left front quarter panel of the vehicle.

**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 16.20.280B provides that "No vehicle may park in an official/reserved zone unless authorized as indicated by the sign or markings of the zone." PCC 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:**

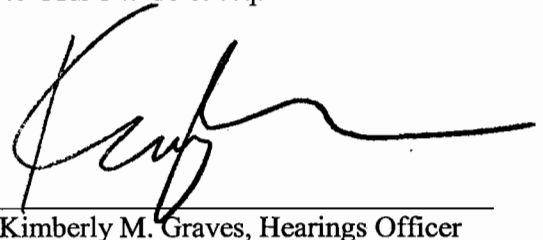
The Hearings Officer finds that the official basis for the tow of the vehicle can be found in the citation issued by the City of Portland, Exhibit 8. The Hearings Officer finds that the Tow Invoice does not create the basis for the tow, as it is not a City of Portland document and is instead completed by the towing company. The Hearings Officer finds that the basis for the tow is a violation of a reserved zone restriction under PCC 16.20.280B. The Hearings Officer finds that Ms. Archibald's vehicle was parked in an space which is reserved for specific vehicles, all hours, all days. The Hearings Officer finds that Ms. Archibald's vehicle is not permitted to park in the reserved space, and was parked in violation of the parking restriction. The Hearings Officer finds that the space was conspicuously posted with signage. The Hearings Officer finds the tow of Ms. Archibald'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 21, 2012  
KMG:c2/m2

  
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Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement  
Tow Number: 14098

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Fax Cover Sheet	Archibald, Susan	Received
2	Tow Hearing Request Form	Archibald, Susan	Received
3	Towing Receipts	Archibald, Susan	Received
4	Tow Desk printout	Hearings Office	Received
5	Notice of Hearing	Hearings Office	Received
6	Statement of Rights and Procedures	Hearings Office	Received
7	Tow Hearing Report	Parking Enforcement	Received
8	Parking Violation #HA09045769	Parking Enforcement	Received
9	Photos	Parking Enforcement	Received