



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF MARK HALPERN

CASE NO. 1120193

DESCRIPTION OF VEHICLE: Volvo 240 (OR 831DVG)

DATE OF HEARING: October 30, 2012

APPEARANCES:

Mr. Mark Halpern, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Mr. Halpern 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. Halpern and the documents admitted into evidence (Exhibits 1 through and including 7).

### Summary of Evidence:

Mr. Halpern submitted a Tow Hearing Request Form, Exhibit 1, and an accompanying note, Exhibit 1a, regarding the tow of his vehicle on October 15, 2012. Mr. Halpern appeared at the hearing and testified to the information contained in Exhibit 1a. Mr. Halpern testified that his wife was using the vehicle early in the morning on October 15, 2012 and that the vehicle "stalled" on Holgate Blvd. Mr. Halpern testified that he is responsible for getting his three children up and off to school, and that it took until approximately 8:30 a.m. before he was able to deal with the stalled vehicle on Holgate Blvd. Mr. Halpern testified that he attempted to move the vehicle off of Holgate Blvd, and in doing so, the vehicle stalled again on SE 44<sup>th</sup> and Holgate. Mr. Halpern testified that SE 44<sup>th</sup> and Holgate is across the street from his house. Mr. Halpern testified that the vehicle stalled in a no parking zone. Mr. Halpern testified that he was able to get the vehicle as close to the curb as possible, and left a note in the vehicle indicating that it had broken down and that it would be moved from the roadway the same day. Mr. Halpern testified that he went to work, and left at 11:30 a.m. to finish dealing with the vehicle. Mr. Halpern testified that when he got close to the location where he had left the vehicle, he saw the vehicle being towed down Holgate Blvd. Mr. Halpern testified that it seems very unjust and inhumane for the "meter maid" to have towed his vehicle given the extenuating circumstances. Mr. Halpern testified that the roadway is not so narrow that emergency vehicles would have been blocked by his vehicle.

The City submitted Exhibits 5 through, and including, 7 regarding the tow of Mr. Halpern's vehicle on October 15, 2012. Exhibit 5 is a Tow Hearing Report which indicates that the vehicle was towed from 44<sup>th</sup> Ave after 11:15 a.m. on October 15, 2012. The narrative portion of the report indicates that the vehicle was towed for "no

parking in block.” The report indicates that signs area clearly visible and posted and that the street is a narrow residential street. The report indicates that “emergency vehicles, garbage trucks and standard vehicles have a difficult if not impossible (sic) to drive down the street.” Exhibit 6 is a copy of the parking citation issued to Mr. Halpern on October 15, 2012 for violating PCC 16.20.205B. Exhibit 7 contains 3 photos related to the tow of Mr. Halpern’s vehicle. The photos show the vehicle parked next to the curb. Directly in front of the vehicle is a stop sign, and posted below the stop sign is a sign indicating that parking is prohibited.

**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 16.20.205B provides that a sign without stated hours or days which regulates parking zones such as "No Parking", "No Parking This Block", "Bus Zone", or "Truck Loading Zone, No Parking Anytime" is in effect all hours of all days, including City recognized holidays. 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:**

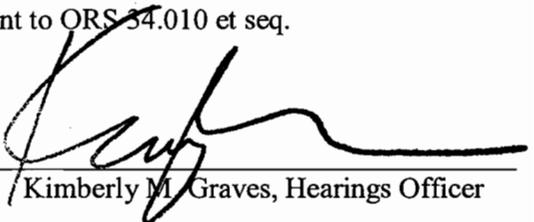
The Hearings Officer finds that on October 15, 2012 Mr. Halpern’s vehicle was parked on SE 44<sup>th</sup> Ave in an area which is subject to a conspicuously posted permanent parking restriction prohibiting parking of vehicles all days, all hours. The Hearings Officer finds that Mr. Halpern’s vehicle was parked in violation of the permanent parking restriction. The Hearings Officer finds that the tow of Mr. Halpern’s vehicle for violating the parking restriction 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: November 1, 2012  
KMG:c2/c1



Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement  
Tow Number: 15988

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Halpern, Mark	Received
1a	Attachment	Halpern, Mark	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 - #HA09705796	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received