



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

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**HEARINGS OFFICER'S ORDER**

APPEAL OF BO KWON

CASE NO. 1080202

DESCRIPTION OF VEHICLE: BMW 750 (OR EVLOVE)

DATE OF HEARING: July 22, 2008

APPEARANCES:

Bo Kwon, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

The Hearings Officer, on substantial evidence and based upon the record as a whole, finds as follows:

Mr. Bo Kwon appeared and testified on his own behalf. The Hearings Officer makes this decision based upon the testimony at the hearing of Mr. Kwon and the admitted exhibits (Exhibits 1 through and including 9).

The officer ordering Mr. Kwon's vehicle towed submitted a report stating the following:  
"Space occupied by defendant's vehicle was posted No Parking 8 PM-8 AM as shown in the photo. The adjacent space was not marked properly. Vehicle was cited and towed in accordance with City procedures." The officer also submitted a photo of a sign with the No Parking from 8 PM to 8 AM..

Mr. Kwon testified that on the evening his vehicle was towed he drove to NW Portland to have dinner. Mr. Kwon stated that he came upon a block of parking spaces that were unoccupied. As he drove along this blockface he noted that all of the signs indicated No Parking from 8 PM to 8 AM, except for one space which indicated No Parking from 8 AM to 8 PM. Mr. Kwon stated that because so many signs restricted parking from 8 PM to 8 AM he was especially careful to make sure that the sign, at the space where he parked, did indicate the parking restriction ran from 8 AM to 8 PM. Mr. Kwon stated that when he returned and found his vehicle towed, he again confirmed that the space in which his vehicle was parked was restricted from 8 AM to 8 PM. Mr. Kwon stated that he did not have a camera with him at the time and that when he returned to the same spot the next day the signs remained the same, and he took a picture (Exhibit #7); the space where he was parked was restricted from 8 AM to 8 PM and the remainder of the signs on the blockface were restricted from 8 PM to 8 AM.

The Hearings Officer finds that the City asserts Mr. Kwon was in a parking space restricted during the hours of 8 PM to 8 AM and his vehicle was towed during the restricted time. Mr. Kwon asserts that he was parked in a space restricted from 8 AM to 8 PM and that he parked in the space after 8 PM. The City, in the officer's report, acknowledges that one of the signs on the blockface was improperly marked. Mr. Kwon acknowledged that the spaces where he was not parked were restricted from 8 PM to 8 AM.

The Hearings Officer finds both the City report and Mr. Kwon's testimony to be credible. The Hearings Officer finds that one space on the blockface was improperly marked. The Hearings Officer finds that the City has the burden of persuasion and that, in this case, it did not carry that burden. The Hearings Officer finds that the City report and Mr. Kwon's testimony, and the City's picture and Mr. Kwon's picture are at direct odds. The Hearings Officer finds the balance tipped by the City's acknowledgement that a space was improperly marked; that space according to Mr. Kwon, is where he parked.

The Hearings Officer finds the tow not valid.

The owner or other persons who have an interest in the vehicle are not liable for the towing and/or storage charges. Therefore, it is ordered that the vehicle shall be immediately released, if still held, and any money heretofore paid for towing and/or storage charges shall be returned to the vehicle owner.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: July 22, 2008

GJF: rs/cb

  
Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement  
Tow Number: 19553

Enclosure

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 2 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Kwon, Bo	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation and photos	Parking Enforcement	Received
7	Photo from camera	Kwon, Bo	Received
8	Photo from camera	Kwon, Bo	Received
9	Copy of receipts	Kwon, Bo	Received