



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

1900 S.W. 4<sup>th</sup> Avenue, Room 3100  
Portland, Oregon 97201  
Telephone: (503) 823-7307  
FAX: (503) 823-4347  
TDD (503) 823-6868

**HEARINGS OFFICER'S ORDER**

APPEAL OF ANTHONY ZELAYA

CASE NO. 1080225

DESCRIPTION OF VEHICLE: Mazda 3 (OR 462DKZ)

DATE OF HEARING: August 14, 2008

APPEARANCES:

Anthony Zelaya, 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. Zalaya appeared and testified on his own behalf. The Hearings Officer makes this decision based upon the testimony of Mr. Zalaya and the exhibits admitted into the evidentiary record (Exhibits 1 through and including 7).

Mr. Zalaya testified that on July 28, 2008 he went to Grant Park to play tennis for a couple of hours. Mr. Zalaya stated that he drives a compact vehicle and saw a small spot that he believed his car could park legally. Mr. Zalaya stated he observed no yellow painted lines prohibiting parking where he parked. Mr. Zalaya testified that he may have been parked slightly, maybe 1 foot, into the edge of a driveway. Mr. Zalaya stated that he was only parked at the location for a short time and created only a minor inconvenience to the property owner of the driveway.

The officer who ordered the tow submitted a written report (Exhibit 5) which stated, in relevant part: "Vehicle was towed when property owner requested enforcement. As per photo, the vehicle was approximately 2 feet past the wing of the narrow driveway. It was not possible to use the driveway. Vehicle towed in accordance with city policies and procedures." In addition to the written report the officer submitted a copy of the City of Portland Parking Violation and two pictures (Exhibit 6).

The Hearings Officer finds that Mr. Zalaya admitted that his vehicle encroached into the driveway space at least one foot. The Hearings Officer also finds that the officer's photos confirm that Mr. Zalaya's vehicle did encroach into the driveway at least one foot. The Hearings Officer finds that the officer had the right, under 16.30.220 and 16.20.130 V. to tow Mr. Zalaya's vehicle if it was parked in front of any portion of a driveway ingress/egress to the public right-of-way. Therefore, the Hearings Officer finds that the tow of Mr. Zalaya's vehicle on July 28, 2008 is valid.

Mr. Zalaya stated that the person who reported the vehicle partially blocking her driveway did not intend for the vehicle to be impounded. The Hearings Officer finds that the complainant's intent, and the relatively short time Mr. Zalaya's vehicle was parked in the driveway area, are not relevant to the Hearings Officer's determination in this case.

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: August 15, 2008



Gregory J. Frank, Hearings Officer

GJF: rs/cb

Bureau: Parking Enforcement

Tow Number: 21004

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Zelaya, Anthony	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 with photo	Parking Enforcement	Received
7	Photos (3)	Zelaya, Anthony	Received