



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF DONNA R. BAUER

CASE NO. 1080228

DESCRIPTION OF VEHICLE: Subaru Outback (OR YSU476)

DATE OF HEARING: August 12, 2008

APPEARANCES:

Ms. Donna R. Bauer, Appellant

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer, on substantial evidence and based upon the record as a whole, and receiving Exhibits 1 through 11 into the record without objection, finds as follows:

The towing officer's report (Exhibit 5) stated that the appellant's vehicle was towed on July 30, 2008 at about 7:40 a.m. because it was parked where no parking barricade signs for street sweeping were posted. The signs had been verified as being in place on July 28 at about 4:30 p.m., and the required 24 hour notice period had passed.

The appellant stated (Exhibit 1) that she did not see any parking restriction signs when she parked. She stated that she parked at about 10:00 p.m. the night before the tow. She provided photographs (Exhibits 8 through 10) showing the location where she parked. The appellant stated that the sign that would have applied to her vehicle was obscured by a truck, and given the very steeply rising hill at the curb next to her vehicle and the truck, she could not have seen the sign. She indicated in one of her photographs where the sign would have been visible had the truck not been parked in front of her.

The code requires that signs be conspicuously posted to give vehicle drivers notice. The officer stated that the signs were posted two days before the tow and when the tow was ordered. The Hearings Officer finds that more probably than not, the sign would have been visible to the appellant if she had looked along the curb where she parked. When vehicles are parked all along a curb or block face, a driver is expected to look along the edge of the block for signs that may be obscured by the vehicles.

Given these circumstances, this was a valid tow. Please note the relevant city code sections below concerning this matter.

16.30.210 When a Vehicle May be Towed.

(Amended by Ordinance Nos. 172788 and 179141, effective March 23, 2005.) A vehicle may be towed and held at the expense of the owner or person entitled to possession thereof from:

A. Any public right-of-way, public park or other public place or property, when:

1. The vehicle is parked in violation of a temporary or permanent parking restriction;

D. Temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area.

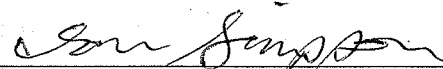
E. Temporary parking restrictions may be enforced by tow if the space reservation device and/or signs are in place by 12:30 p.m. the prior day in any meter district.

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 22, 2008

IS: rs


Ian Simpson, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 21141

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Bauer, Donna R.	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	Parking Enforcement	Received
7	Receipts for what appears movie tickets	Bauer, Donna R.	Received
8	Photos labeled 2A through 2D	Bauer, Donna R.	Received
9	Photos labeled 3A through 3D on 1 side, & 4A on reverse side of page	Bauer, Donna R.	Received
10	Photos labeled 1A through 1D on 1 side, & 5A through 5D on reverse side of page	Bauer, Donna R.	Received
11	Tow receipt	Bauer, Donna R.	Received