



CITY OF  
**PORTLAND, OREGON**  
HEARINGS OFFICE

1900 S.W. 4<sup>th</sup> Avenue, Room 3100  
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**HEARINGS OFFICER'S ORDER**

APPEAL OF JEANETTE WARREN

CASE NO. 1080326

DESCRIPTION OF VEHICLE: Honda Fit (OR 544DKF)

DATE OF HEARING: November 13, 2008

APPEARANCES:

Ms. Jeanette Warren, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Ms. Jeanette Warren, Appellant, appeared and testified on her own behalf. The Hearings Officer makes this decision based upon the testimony of Ms. Warren and the exhibits admitted into the evidentiary record (exhibits 1 through and including 13).

Exhibit 6 is a report submitted by the officer ordering Ms. Warren's vehicle towed. The officer received a report that a vehicle was blocking a driveway and upon arrival observed Ms. Warren's vehicle "along the east side of NE 28<sup>th</sup>, facing northbound, completely blocking the driveway (with sidewalk cut) to 422 NE 28<sup>th</sup>."

Ms. Warren testified that prior to parking her vehicle she observed a driveway. Ms. Warren stated that after she parked her small car (Honda Fit) at the location where it was towed, she got out of the car and walked around the car to make sure she was not blocking the drive. She stated that she believed she parked outside the area she considered the driveway. Ms. Warren stated, during her testimony, that the driveway in question is difficult to ascertain the exact location where the driveway ends and the curb begins. Ms. Warren submitted pictures (exhibit 12) of the driveway that her vehicle supposedly blocked.

The Hearings Officer finds that with the leaves on the ground, it is very difficult to say, for certain, where the driveway apron ends (where the wings end). Ms. Warren marked, in pen, on a picture (exhibit 12, top picture on second page) the location where the front of her vehicle was located.

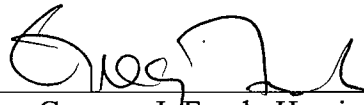
The Hearings Officer finds that Ms. Warren is a credible witness. The Hearings Officer finds that Ms. Warren did take precautions in parking her vehicle and technically the front bumper area of her vehicle

may have extended into the driveway apron or wing; which would be in the driveway per Portland City Code 16.90.105. However, the Hearings Officer also finds that the deteriorated concrete on the driveway wing and the existence of leaves make enforcing such a technical violation unreasonable. The Hearings Officer finds that Ms. Warren's vehicle was parked in a location where a reasonable person would conclude is outside of the driveway and therefore not in violation of Portland City Code 16.20.130 V. The Hearings Officer finds the tow of Ms. Warren's vehicle is 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: November 17, 2008  
GJF: rs

  
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Gregory J. Frank, Hearings Officer

Bureau: Police  
Tow Number: 28738

#### Enclosure

If a refund has been authorized, it will be sent from the City's Accounts Payable Office. Please allow at least 5 weeks.

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Warren, Jeanette	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Tow Hearings Process Info. sheet	Hearings Office	Received
5	Towed Vehicle Record	Police Records	Received
6	Investigation Report (2 pgs)	Police Records	Received
7	Parking Violation	Police Records	Received
8	DUPLICATE OF EXH. 1 (original) rec'd by mail	Warren, Jeanette	Received
9	DUPLICATE OF EXH. 5 (towed vehicle record) rec'd interoffice mail	Police Records	Received
10	DUPLICATE OF EXH. 6 (investigation report - 2 pgs) rec'd interoffice mail	Police Records	Received
11	DUPLICATE OF EXH. 7 (parking violation) rec'd interoffice mail	Police Records	Received
12	4 Photos on 2 pages	Warren, Jeanette	Received
13	Tow receipt	Warren, Jeanette	Received