



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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

HEARINGS OFFICER'S ORDER

APPEAL OF JAKE SALCONE

CASE NO. 1080332

DESCRIPTION OF VEHICLE: Subaru Legacy (SD 9CT573)

DATE OF HEARING: November 25, 2008

APPEARANCES:

Mr. Jacob Salcone, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Mr. Salcone appeared and testified at the hearing. Mr. Salcone indicated he had no objection to the admission, into the evidentiary record, of exhibits 1 through and including 9; the Hearings Officer admitted exhibits 1 through and including 9. The Hearings Officer makes this decision based upon the testimony of Mr. Salcone and the admitted exhibits.

Mr. Salcone referred the Hearings Officer to exhibit 2. Mr. Salcone pointed out that the curb is "low" for an extended space. Mr. Salcone stated that there were two driveway entrances off of the "low" area and somewhat in the middle of the "low" area a hedge. Mr. Salcone emphasized that the "low" area in front of the hedge did not access a parking lot or driveway. Mr. Salcone stated that he has observed, during the last year, vehicles frequently park in the "low" area in front of the hedges. Mr. Salcone stated that parking in that location, which he did on the day prior to his vehicle being towed, did not block either of the driveways into the business. Mr. Salcone stated that on the date his vehicle was towed two long mobile home-like structures were moved onto the property and because those structures were so long his vehicle was interfering with access to the property. Mr. Salcone testified that there are no signs indicating no parking in the "low" area in front of the hedges.

Portland City Code 16.90.105 defines, for purposes of enforcement, a driveway to include the "low" area extending from one curb return to the other and if winged, includes the wings.


The Hearings Officer finds that Mr. Salcone does not dispute that he parked in the "low" curb area similar to that depicted in Exhibit 2. The Hearings Officer finds that the location where Mr. Salcone parked his vehicle meets the definition of a driveway (16.90.105) because the location he parked is between curb returns and/or between winged areas. The Hearings Officer finds that the location where

Mr. Salcone parked his vehicle is technically, as defined by the City of Portland Code, a driveway. The Hearings Officer finds that there need not be a sign restricting parking in a driveway. The Hearings Officer finds that the parking patrol officer (see report – exhibits 6 and 7) comments are credible. The Hearings Officer finds that Mr. Salcone, by parking in the “low” area (a driveway) violated Portland City Code 16.20.130 (Prohibited in Specified Places) and was subject to tow without prior notice (16.30.220). The Hearings Officer finds the tow of Mr. Salcone’s vehicle on November 10, 2008 is valid.

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 26, 2008
GJF: cb/rs



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 30138

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Letter	Salcone, Jake	Received
2	4x6 color photos copied on 1 page	Salcone, Jake	Received
3	Tow desk report printout	Hearings Office	Received
4	Hearing notice	Hearings Office	Received
5	Tow hearing info. sheet	Hearings Office	Received
6	Tow hearing report (2 pgs)	Parking Enforcement	Received
7	Portland Maps diagram with arrows drawn	Parking Enforcement	Received
8	Parking Violation w/photos	Parking Enforcement	Received
9	1 page of 4 photos	Parking Enforcement	Received