



CITY OF
PORTLAND, OREGON

HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF MARI ANN MARCY

CASE NO. 1080348

DESCRIPTION OF VEHICLE: Subaru Legacy (WA 129RYC)

DATE OF HEARING: December 11, 2008

APPEARANCES:

Nicolas F. Applebee, representing the 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 7 into the record without objection, finds as follows:

The appellant submitted a letter (Exhibit 5) authorizing her son, Nicolas Felder Applebee, to represent her in the hearing. Mr. Applebee confirmed that the subject vehicle's license plate number is 129RYC. Exhibit 5 lists an incorrect license plate number.

The towing officer's report (Exhibit 6) stated that the appellant's vehicle was towed on December 3 at about 8:15 a.m. because it was parked where no parking barricade signs for street sweeping were posted on the curb. The signs were posted on December 1 and verified as still posted later in the day on December 1. The required 24 hour notice period had passed.

Mr. Applebee, who had parked the vehicle before it was towed, stated that there was no adequate warning in the area, and that he did not receive a flyer announcing the impending street sweeping.

Parking enforcement's policy is to have at least three signs per block posted for street sweeping. The Hearings Officer makes a decision based on the evidence and what is the more probable scenario. The Hearings Officer finds that it is more probable that Mr. Applebee failed to see the signs, rather than that the signs were posted, verified later as still in place, removed before the vehicle was parked, and then posted again before the street sweep and subsequent tow.

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: December 12, 2008
IS: rs


Ian Simpson, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 32236

Enclosure

| Exhibit # | Description | Submitted by | Disposition |
|-----------|--|---------------------|-------------|
| 1 | Hearing request letter | Marcy, Mari Ann | Received |
| 2 | Tow Desk printout | Hearings Office | Received |
| 3 | Hearing Notice | Hearings Office | Received |
| 4 | Tow Hearings Process Info. sheet | Hearings Office | Received |
| 5 | Letter naming son representative | Marcy, Mari Ann | Received |
| 6 | Tow hearing report w/narrative (2 pgs) | Parking Enforcement | Received |
| 7 | Parking violation | Parking Enforcement | Received |