



CITY OF
PORTLAND, OREGON
HEARINGS OFFICE

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HEARINGS OFFICER'S ORDER

APPEAL OF RACHEL VANN

CASE NO. 1080352

DESCRIPTION OF VEHICLE: Honda Civic (OR WVL942)

DECISION WITHOUT PERSONAL APPEARANCE

HEARINGS OFFICER: Mr. Ian Simpson

The Hearings Officer, on substantial evidence and based upon the record as a whole, and receiving Exhibits 1 through 8 into the record without objection, finds as follows:

The appellant requested (Exhibit 8) a decision without an appearance.

The towing officer's report (Exhibit 6) stated that an employee of the Mark Spencer Hotel flagged the officer down because the appellant's vehicle was creating a traffic hazard. The vehicle was not associated with the hotel and was parked in the "15 minute All Day Hotel Zone" (subject to tow) parking area. The vehicle was parked at an angle in a parallel parking space. The vehicle's back end protruded into the lane creating a traffic hazard.

The appellant stated in her request for a hearing (Exhibit 1) that she was told that the vehicle's emergency brake was not fully engaged, and so the vehicle had rolled slightly and an officer had it towed. The appellant had sat in her vehicle for at least five minutes while it was turned off before leaving it, and it was parked properly. The appellant also stated (Exhibit 8) that she believes the vehicle moved because the emergency brake was not fully engaged.

The Hearings Officer finds that the officer's report is highly persuasive. Even if the vehicle moved into a hazardous position due to a faulty parking brake, it does not relieve the appellant of responsibility for the 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 No. 172788, effective November 13, 1998.) 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, when:
2. The vehicle is parked unlawfully or in a manner that may be hazardous to traffic;

16.30.220 Towing Without Prior Notice.

(Amended by Ordinance Nos. 165980, 170912, 176352, and 176442, effective May 1, 2002.) Any authorized officer may, without prior notice, order a vehicle towed, when:

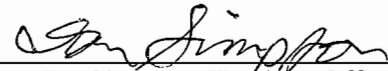
- A. The vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic;
- D. The vehicle poses an immediate danger to the public safety;

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: cb/rs



Ian Simpson, Hearings Officer

Enclosure

Bureau: Police
Tow Number: 31833

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Vann, Rachel	Received
2	Tow desk report	Hearings Office	Received
3	Hearing notice	Hearings Office	Received
4	Tow hearing info. sheet	Hearings Office	Received
5	Towed vehicle record	Police Bureau	Received
6	Investigation Report	Police Bureau	Received
7	Parking Violation	Police Bureau	Received
8	Request for decision without appearance	Vann, Rachel	Received