



CITY OF

PORTLAND, OREGON

OFFICE OF THE CITY AUDITOR  
Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF SALLY CARLSON

CASE NO. 1090254

DESCRIPTION OF VEHICLE: Subaru Legacy (CO 266TEZ)

DATE OF HEARING: November 24, 2009

### APPEARANCES:

Ms. Sally Carlson, Appellant

Officer Deborah Barkley, for the City

HEARINGS OFFICER: Mr. Gregory J. Frank

Ms. Carlson appeared and testified on her own behalf. Parking Enforcement Officer Barkley appeared and testified on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Ms. Carlson, Officer Barkley and the documents admitted into the evidentiary record (Exhibits 1 through and including 7).

Ms. Carlson stated that prior to her vehicle being towed it had been parked in the location (SW 17<sup>th</sup> between Columbia and Clay) for approximately 10 hours. Ms. Carlson stated that when she parked her vehicle, there were other vehicles parked in the immediate area; she was required to parallel park to get into the space. Ms. Carlson testified that there was an "A-frame" sign but it was laying down on the ground; not standing upright. Ms. Carlson stated that since the sign was laying down on the ground, any restrictions printed on the sign were not effective.

Officer Barkley testified that on November 9, 2009, she received a service request call that vehicles were parked in a temporary no parking area. Officer Barkley stated that when she arrived at the location where Ms. Carlson's vehicle was parked, she confirmed temporary no parking signs were present and that they had been "verified" to be in place for more than 24 hours. Officer Barkley stated that, in addition to the "A-frame" temporary no parking signs there were additional signs on telephone poles (covering area permit signs – see photo submitted by Ms. Carlson identified as Exhibit 7). Officer Barkley stated that a total of five signs were visible in the blockface where Ms. Carlson's vehicle was parked.

The Hearings Officer shall find a tow valid if the Hearings Officer finds that the person ordering the vehicle towed followed the relevant laws/rules. In this case the relevant laws/rules can be found in

Portland City Code (“PCC”) 16.30.210 A.1, 16.30.210 D, and 16.30.220 B. PCC 16.30.210 A.1 provides that a vehicle may be towed and held at the expense of the owner if the vehicle is parked in the public right-of-way in violation of a temporary parking restriction. PCC 16.30.210 D states that a temporary parking restriction may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.220 B provides that a parking enforcement officer may order a vehicle towed, without prior notice, if the vehicle is illegally parked in a conspicuously posted restricted space, zone or traffic lane.

The Hearings Officer finds the testimony of both Ms. Carlson and Officer Barkley to be credible. The Hearings Officer finds that there is no dispute by either Ms. Carlson or Officer Barkley that the temporary no parking signs were placed in the location of Ms. Carlson’s vehicle on SW 17<sup>th</sup> more than 24 hours prior to the order of Ms. Carlson’s vehicle on November 9, 2009. The Hearings Officer finds that Ms. Carlson is contesting that the signs were conspicuous. The Hearings Officer finds that multiple signs were present on the blockface where Ms. Carlson’s vehicle was parked/towed. The Hearings Officer finds that even if the “A-frame” sign were lying down, there was another sign immediately in front of the location where Ms. Carlson parked her vehicle, on a telephone pole, indicating the temporary no parking restriction. The Hearings Officer also finds other temporary no parking signs were present on the blockface where Ms. Carlson parked. The Hearings Officer finds that the temporary no parking signs, on the blockface where Ms. Carlson parked, were conspicuous.

The Hearings Officer finds Ms. Barkley, the person ordering Ms. Carlson’s vehicle towed, did follow the relevant laws/rules. The Hearings Officer finds, based upon the evidence in the record, the tow of Ms. Carlson’s vehicle on November 9, 2009 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 25, 2009  
GJF:rs

  
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Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement  
Tow Number: 22263

Enclosure

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Hearing request letter	Carlson, Sally	Received
2	Hearing Notice	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 w/photos	Parking Enforcement	Received
7	Copy of Exh. from case file 1090251, same parking site per Parking Enforcement	Carlson, Sally	Received