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CITY OF  

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**PORTLAND, OREGON**

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**OFFICE OF THE CITY AUDITOR**  
Hearings Office

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**HEARINGS OFFICER'S ORDER**

APPEAL OF ANGELA READ

CASE NO. 1090276

DESCRIPTION OF VEHICLE: Toyota Corolla (OR 746BZE)

DATE OF HEARING: January 7, 2010

APPEARANCES:

Ms. Angela Read, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

Ms. Read appeared at the hearing and testified on her own behalf. No person appeared and testified at the hearing on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Ms. Read and the documents admitted into the evidentiary record (Exhibits 1 through and including 11).

Ms. Read testified that on December 4, 2009 at approximately 7:15 a.m., she parked her vehicle between 23<sup>rd</sup> and 24<sup>th</sup> on NW Lovejoy. Ms. Read stated that she parked on the right hand side of the street and, at that time, many cars were parked on the block face. Ms. Read stated that she saw a sawhorse-like sign in front of her vehicle; on the far side of an intervening "double" driveway. Ms. Read stated she observed no additional temporary no parking signs on the block face where she parked.

Ms. Read, in her written request for a tow hearing (Exhibit 1) expressed, in greater detail than her testimony at the hearing, her reasons why she believed that the Parking Enforcement Officer who ordered her vehicle towed did not follow the relevant laws/rules. Ms. Read stated Portland City Code ("PCC") 16.10.050 and 16.30.220 B. PCC 16.30.220 B states, in relevant part, that a vehicle may be towed without prior notice if the vehicle is illegally parked in a **conspicuously posted** restricted space..." (emphasis added by Ms. Read). Ms. Read, in Exhibit 1, states that "there were no 'conspicuously posted temporary or permanent parking restrictions' anywhere near or visible to where I parked my car."

The Parking Enforcement Officer who ordered Ms. Read's vehicle towed on December 4, 2009 submitted a Tow Hearing Report (Exhibit 9), copy of parking violation (Exhibit 10) and two photos (Exhibit 11). In the narrative section (officer comments) of the Tow Hearing Report (Exhibit 9) the Parking Patrol Officer wrote that

"barricades were up more than 24 hours which is required. As in the picture the barricade was up. There were barricades up on the entire block. This was the only car on this block face that was cited/towed."

The Parking Enforcement Officer, in the Tow Hearing Report (Exhibit 9) also noted that the specific barricade in the photo (Exhibit 11) was placed and verified on December 2, 2009 at 2:24 p.m. and that Ms. Read's vehicle was towed on December 4, 2009 at 7:45 a.m. (see also Exhibit 10). Exhibit 11 contains two color photos (Ms. Read was provided a black/white version). The photo on the left side of Exhibit 11 shows the rear of Ms. Read's vehicle (with license number) and the photo on the right side shows the front end of Ms. Read's vehicle, a driveway, a barricade sign and a tow truck. The Hearings Officer noted that the photo on the left side of Exhibit 11 shows two houses that are recognizable in the right hand side photo.

The Hearings Officer must find a tow valid if the Hearings Officer finds that the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules are found in the Portland City Code ("PCC") Title 16. The specific sections of PCC Title 16 that are relevant to this case are found in PCC 16.30.210 A.1, PCC 16.30.210 D, and PCC 16.30.220 B. PCC 16.30.210 A.1 authorizes a Parking Enforcement Officer to order a vehicle towed and stored, at the owner's expense, if the vehicle is parked in any public right-of-way and the vehicle is parked in violation of any temporary or permanent parking restriction. PCC 16.30.210 D states that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.220 B permits a Parking Enforcement Officer to order a vehicle towed, without prior notice if the vehicle is illegally parked in a conspicuously posted restricted space/zone.

The Hearings Officer finds the statements made by the Parking Enforcement Officer to be credible. The Hearings Officer finds the statements made by Ms. Read to be slightly less credible. The Hearings Officer finds that both Ms. Read and the Parking Enforcement Officer testimony/statements agree that a sign was in placed in front of Ms. Read's vehicle. Ms. Read argued that the sign was too far in front of her vehicle and a "double" driveway was between her vehicle and the sign rendering the sign not conspicuous.

Ms. Read stated that she did not see any other temporary no parking signs on the block face where she parked. The Parking Enforcement Officer stated that there were temporary signs on the entire block. Ms. Read stated that when she parked there were "cars parked at the foot of the street behind me, in the 15 minute parking spots. I could see cars up ahead on both sides of the street." (Exhibit 1 and similar testimony of Ms. Read at the hearing).

The Hearings Officer finds that Ms. Read's testimony that there were many cars parked on the street when she parked her vehicle (Ms. Read's estimate of 7:15 a.m.) is credible. The Hearings Officer also finds the statement by the Parking Enforcement Officer that only one vehicle was parked on the block face where Ms. Read's vehicle was parked/towed is credible. The Hearings Officer finds one logical explanation that ties Ms. Read's and the Parking Enforcement Officer's testimony together, regarding vehicles parked on the block face, is that the temporary no parking signs that indicated the temporary no parking restrictions went into effect at 7:30 a.m. (15 minutes after Ms. Read parked) and other person's who parked on the block face moved their vehicles before the parking restriction went into effect.

The Hearings Officer finds, based upon the evidence in the record, that temporary no parking signs were placed, on the block face where Ms. Read's vehicle was parked/towed, at 2:24 p.m. on December 2, 2009 and that the temporary no parking signs were in place immediately prior to Ms. Read's vehicle being towed. The Hearings Officer finds that the temporary no parking signs were placed on the block face more than 24 hours prior to the tow of Ms. Read's vehicle. The Hearings Officer finds that the

temporary no parking signs, including the sign in front of Ms. Read's vehicle and shown on Exhibit 11, were conspicuous. The Hearings officer finds that all other vehicles on the block face moving prior to the effective time for the temporary parking restriction indicates that the temporary no parking signs conspicuously conveyed the nature of the parking restriction. The Hearings Officer finds that the Parking Enforcement Officer, in this case, followed the relevant laws/rules. The Hearings Officer finds that the tow of Ms. Read's vehicle on December 4, 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: January 8, 2010  
GJF:cb/rs



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement  
Tow Number: 23981

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Tow hearing request form	Read, Angela	Received
1a	Letter	Read, Angela	Received
1b	Photo	Read, Angela	Received
1c	Photo	Read, Angela	Received
1d	Photo	Read, Angela	Received
1e	Photo	Read, Angela	Received
2	Copy of receipts	Read, Angela	Received
3	Page of labels submitted with documents	Read, Angela	Received
4	Tow desk printout	Hearings Office	Received
5	Hearing notice	Hearings Office	Received
6	Tow hearing info. sheet	Hearings Office	Received
7	Request to reschedule	Read, Angela	Received
8	Hearing Notice	Hearings Office	Received
9	Tow hearing report	Parking Enforcement	Received
10	Parking violation	Parking Enforcement	Received
11	Photos	Parking Enforcement	Received