



CITY OF
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Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF TINA ALLAHVERDIAN

CASE NO. 1090296

DESCRIPTION OF VEHICLE: Subaru Impreza (OR ZVQ883)

DECISION WITHOUT AN APPEARANCE

HEARINGS OFFICER: Mr. Gregory J. Frank

Ms. Tina Allahverdian requested that the Hearings Officer make a decision without her personal appearance at a hearing (Exhibit 9). The Hearings Officer, pursuant to the Tow Hearings Officer Rules and Regulations (ADM-9.03, section 2-6), is authorized to make tow appeal decisions based upon the documents admitted into the evidentiary record. In this case, the documents admitted into the evidentiary record are Exhibits 1 through and including 9.

Ms. Allahverdian stated, in her request for a tow hearing (Exhibit 1) that she parked her vehicle on December 21, 2009 at 9:00 p.m. between two driveways. Ms. Allahverdian stated, in Exhibit 1, that "I parked on a section of unmarked curb, large enough for a small car to fit between the two driveways on either end." Ms. Allahverdian submitted photos to support her statements (Exhibit 2). Ms. Allahverdian went on to say, in Exhibit 1, that "On the opposite side of the Dow Columbia driveway was a painted curb and a sign post, with no sign attached. After I parked, I got out to assess my car and be sure it wasn't blocking either driveway." Finally, in Exhibit 1, Ms. Allahverdian stated "I believe that if the city is going to tow cars for parking in that spot, then there needs to be signage and a painted curb- some sort of warning."

Ms. Allahverdian submitted an additional letter (Exhibit 9). In Exhibit 9 Ms. Allahverdian states that "before I parked I checked the front and rear end of my car to be sure that it wasn't blocking either driveway." The Hearings Officer did review the photos attached to Exhibit 1 and Exhibit 9.

The Parking Patrol Officer who ordered Ms. Allahverdian's vehicle towed on December 21, 2009 submitted a Tow Hearing Report (Exhibit 6), copy of parking violation (Exhibit 7), and photographs (Exhibit 8). The narrative section of the Tow Hearing Report (Exhibit 6) states

"The front of the vehicle was into the Dow Co driveway. I received a request from the Dow Co. When I arrived employees were standing by needing to get large trucks into their lot. The vehicle was approx 6 feet into front end."

Exhibit 8 contains color pictures of Ms. Allahverdian's vehicle prior to it being towed; photos taken by the Parking Enforcement Officer who ordered Ms. Allahverdian's vehicle towed. All pictures are rather dark. The picture in the upper right portion of Exhibit 8 contains a note from the Parking Enforcement Officer which states "this is the fenced gate into Dow Company." A fence can be seen in two of the photos (one of which is referenced with the note by the Parking Enforcement Officer).

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 16.20.130 V., PCC 16.30.220B and PCC 16.90.105. PCC 16.20.130 V states that it is unlawful to park or stop a vehicle in front of any portion of a driveway ingress/egress to the public right-of-way. PCC 16.90.105 defines a "driveway" for the purposes of Title 16. In summary, PCC 16.90.105 defines a "driveway" as an access extending from a public right-of-way onto private or public lands for the purpose of gaining vehicular access to such areas and reasonably designated at the property line so as to be an obvious open for access. For the purposes of enforcement a driveway extends from one curb return to the other and if winged, includes the wings. PCC 16.30.220 B permits a vehicle to be towed without prior notice and stored, at the owner's expense, in a location where parking is prohibited.

The Hearings Officer finds that if Ms. Allahverdian's vehicle was parked where the red Toyota sedan is parked in the pictures she submitted (attachment to Exhibit 1) then her vehicle would not have been parked in a driveway as defined in the PCC 16.90.105. However, it appears to the Hearings Officer that the photos taken by the Parking Enforcement Officer (Exhibit 8) shows Ms. Allahverdian's vehicle parked somewhat in front of the location shown in her pictures (attachment to Exhibit 1). The Hearings Officer notes that Ms. Allahverdian's photos appear to show her vehicle (attachment to Exhibit 1 – lower left and lower right photos) to have the rear of the vehicle in a driveway, but the upper right hand photo shows the car with the rear-end out of the driveway, but the front of the vehicle in the Dow Columbia driveway. The Hearings Officer finds the Parking Enforcement Officer's photos and narrative (Exhibits 6, 7 and 8) to be more credible than the narrative and photos (Exhibits 1 and 9). The Hearings Officer finds that the Parking Enforcement Officer, on December 21, 2009, did receive a complaint from Columbia Dow (business) and personally observed Columbia Dow vehicles waiting to access the driveway, which Ms. Allahverdian's vehicle partially blocked. The Hearings Officer finds, on December 21, 2009, Ms. Allahverdian's vehicle was unlawfully parked in a driveway as defined in PCC 90.105.

Ms. Allahverdian stated that she felt the signage was not adequate (Exhibit 1); i.e. a marking should have been painted on the curb similar to the painting on the curb across the street. The Hearings Officer finds that signage and/or painting of curbs is not necessary to have a vehicle towed, in the City of Portland, that is parked in a driveway.

The Hearing Officer finds that the person ordering Ms. Allahverdian's vehicle towed on December 21, 2009 followed the relevant laws/rules. The Hearings Officer finds the tow of Ms. Allahverdian's vehicle on December 21, 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:rs/cb



Gregory J. Frank, Hearings Officer

Bureau: Parking Enforcement

Tow Number: 25363

Enclosure

Exhibit #	Description	Submitted by	Disposition
1	Hearing request letter	Allahverdian, Tina	Received
2	Photos	Allahverdian, Tina	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Tow Hearings Process Info. sheet	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation	Parking Enforcement	Received
8	Photos	Parking Enforcement	Received
9	Letter requesting decision without an appearance w/duplicate copies of Exh. 1 & 2 attached	Allahverdian, Tina	Received