



CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY AUDITOR
Hearings Office

LaVonne Griffin-Valade, City Auditor
1900 SW 4th Avenue, Room 3100
Portland, Oregon 97201
Telephone: (503) 823-7307
Fax: (503) 823-4347
TDD: (503) 823-6868
www.portlandonline.com/auditor/hearings

HEARINGS OFFICER'S ORDER

APPEAL OF MICHELLE WOZNIAK

CASE NO. 1100028

DESCRIPTION OF VEHICLE: Honda Civic (OR 838EAT)

DATE OF HEARING: February 18, 2010

APPEARANCES:

Ms. Michelle Wozniak, Appellant

Officer Deborah Barkley, City of Portland Parking Enforcement

HEARINGS OFFICER: Ms. Christina A. Austin-Smith

Ms. Wozniak appeared at the hearing and testified on her own behalf. Officer Barkley appeared on behalf of the City. The Hearings Officer makes this decision based on substantial evidence upon the record as a whole, which includes the testimony of Ms. Wozniak, Officer Barkley and the documents marked as Exhibits 1 through 9. Ms. Wozniak confirmed she had received and reviewed Exhibits 1 through 8 and submitted Exhibit 9. The Hearings Officer finds all of these Exhibits relevant and both parties had the opportunity to challenge their accuracy during the proceeding.

Ms. Wozniak testified that she has a Zone A parking permit and parked her car partially in a loading zone area at 10 p.m. She testified she understood that parking was prohibited in the loading zone during specified hours. Ms. Wozniak stated on the record permissible hours to be in the loading zone were 6 a.m. until 7 p.m. Monday through Saturday. She stated her car was towed at 9:20 a.m. on February 5th, which was a Friday.

Officer Barkley testified that the sign prohibited parking in the loading zone from 7 a.m. until 6 p.m. Monday through Saturday. She also indicated the car was towed at 9:29 a.m. on February 4th. The time and date of the tow as listed on the citation (Exhibit 7) confirms the officer's testimony.

Ms. Wozniak admitted on the record that if her car was in the loading zone at 9:29 a.m. it was present during prohibited loading zone hours. Therefore, while the testimony would suggest the tow was not valid because the vehicle was towed during a non-loading zone time, the Hearings Officer finds based on the evidence above that Ms. Wozniak simply erred in stating the times on the loading zone sign and the date of the tow.

Ms. Wozniak testified that she knew she parked close to a loading zone and had concerns about the location of her car. Because she did not want to park illegally, she double-checked the car's location. She did not see any yellow

paint on the curb designating the location of the loading zone and noticed other loading zones have this paint. She submitted Exhibit 9 to demonstrate the lack of paint where she had been parked and paint in other loading zones in the city. Ms. Wozniak testified that when she double-checked, she did know that part of her car was parked behind the loading zone sign, in what she termed the "red area" as designated by the sign. She testified that she had pulled up as far as she could, and not seeing paint designating the exact location of the loading zone, felt her car was only partially in the loading zone area and would be okay.

Officer Barkley testified that the vehicle was completely parked in the loading zone, as evidenced by her photos in Exhibit 8. She stated she first noticed and cited the car for the loading zone violation at 7:29 a.m. She then returned at 9:29 a.m. to find the car had not been moved. She stated since more than 1 hour had passed since she issued the first citation, she had the car towed to free up the loading zone area for a large apartment building.

The Hearings Officer must find a tow is valid if the person ordering the tow followed the relevant laws/rules. In this case the relevant laws/rules can be found in the Portland City Code ("PCC") Title 16. PCC 16.20.220 defines truck loading zones and states that only certain vehicles, while being actively loaded or unloaded, may park in a loading zone for no more than 30 minutes. PCC 16.90.295 indicates a regulated parking zone is the space adjacent to a curb, designated by official signs or markings. PCC 16.30.210A1 permits a vehicle to be towed when in violation of a permanent parking restriction. PCC 16.20.220B permits a tow without prior notice when the vehicle is illegally parked in a conspicuously posted restricted zone.

The Hearings Officer finds that Ms. Wozniak parked at least the majority of her passenger vehicle behind a sign designating a Truck Loading Zone at 10 p.m. on February 3, 2010. The vehicle was parked appropriately overnight, until 7 a.m. when the truck loading zone restriction came into effect. Although the curb was not painted yellow, such markings are not required provided there is an official sign. The photographs at Exhibits 8 and 9 show a clearly posted sign. While testimony was somewhat confusing, there is no issue that the vehicle was in the area during a prohibited time. The Hearings Officer finds Ms. Wozniak's car was parked in the loading zone and while not required by City Code, she was given two hours notice to move the vehicle before it was towed.

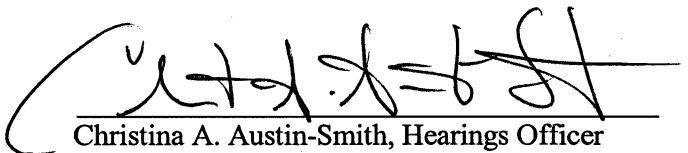
Therefore, it is ordered that all towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.

This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: February 19, 2010

CAS:rs/cb

Enclosure



Christina A. Austin-Smith, Hearings Officer

Bureau: Parking Enforcement
Tow Number: 2218

Exhibit #	Description	Submitted by	Disposition
1	Hearing request form	Wozniak, Michelle	<u>Received</u>
2	Tow Invoice	Wozniak, Michelle	<u>Received</u>
3	Tow Desk printout	Hearings Office	<u>Received</u>
4	Hearing Notice	Hearings Office	<u>Received</u>
5	Tow Hearings Process Info. sheet	Hearings Office	<u>Received</u>
6	Tow Hearing Report	Parking Enforcement	<u>Received</u>
7	Parking Violation	Parking Enforcement	<u>Received</u>
8	Photos	Parking Enforcement	<u>Received</u>
9	Photos (3 pages)	Wozniak, Michelle	<u>Received</u>