

# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF CYNTHIA J. SIMMONS

CASE NO. 1110038

DESCRIPTION OF VEHICLE: Chevrolet Aveo (OR 988ELV)

DATE OF HEARING: April 7, 2011

### APPEARANCES:

Ms. Cynthia Simmons, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Simmons appeared at the hearing and testified on her own behalf. No one 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. Simmons and the documents admitted into evidence (Exhibits 1 through and including 7).

### Summary of Evidence:

Ms. Cynthia Simmons submitted a written request for a hearing regarding the tow of her vehicle (Exhibit #1). Ms. Simmons indicated in her request that she believed that she was legally parked and failed to notice the no parking sign. Ms. Simmons further writes that her vehicle was never towed, because she arrived on scene. Ms. Simmons writes, "Why must I pay towing?" Ms. Simmons testified at the hearing that she did not initially know why her vehicle was being towed, but acknowledges that based on the photos it is clear that she was parked in an area in which parking was not allowed. Ms. Simmons testified that she believes the fee charged to release her vehicle to her at the scene was "unfair."

The City submitted Exhibits 5 through, and including, 7 for the Hearings Officer's consideration. Exhibit 5 is a handwritten report indicating that Ms. Simmons' vehicle was towed on March 30, 2011 from SE Hawthorne Boulevard because it was blocking a driveway. The report indicates that the driveway was marked with two "no parking anytime" signs and there was yellow paint marking the driveway apron. Exhibit 6 contains a copy of the citation issued to Ms. Simmons for violating Portland City Code 16.20.130V. Exhibit 7 contains four photos of Ms. Simmons' vehicle as it was parked prior to towing. The photos clearly show the signage surrounding the area in which Ms. Simmons' vehicle was parked.

**Applicable Law:**

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 16.20.130V provides that it is unlawful to park a vehicle in front of any portion of a driveway ingress/egress to the public right-of-way. PC 16.90.105 defines a driveway as a road or access . . . extending from a public right-of-way onto private or public lands or structures for the purpose of gaining vehicular access to such areas and reasonably designated at the property line so as to be an obvious opening for access. PCC 16.30.210 permits a vehicle to be towed from any public right-of-way when it is parked in violation of a temporary or permanent parking restriction. PCC 16.30.220 authorizes a tow of a vehicle, without notice, when the vehicle is impeding or likely to impede the normal flow of vehicular traffic.

**Findings of Fact and Conclusions of Law:**

The Hearings Officer finds that on March 30, 2011, Ms. Simmons parked her vehicle on SE Hawthorne Boulevard, a public right-of-way. Ms. Simmons parked her vehicle in a manner which was impeding or likely to impede the normal flow of vehicular traffic to and from a driveway. The area in which Ms. Simmons parked her vehicle was clearly marked by two "no parking" signs, as well as yellow paint on the curb marking the wings of the driveway. The tow of Ms. Simmons vehicle is valid.

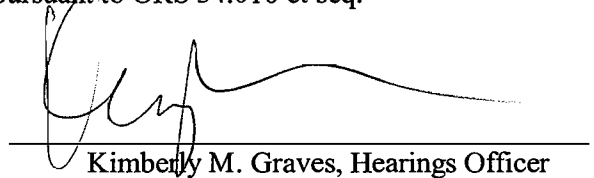
Information regarding the fees charged for towing, can be found in the "Contract for Vehicle Towing and Storage", which can be viewed on the City of Portland website.

**Order:**

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: April 8, 2011  
KMG:rs

  
Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement  
Tow Number: 826157

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	Simmons, Cynthia J.	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Notice of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photo page	Parking Enforcement	Received