



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

### APPEAL OF AMBER MULVEY

CASE NO. 1110087

DESCRIPTION OF VEHICLE: Subaru Outback (OR CL21166)

DATE OF HEARING: June 23, 2011

### APPEARANCES:

Ms. Amber Mulvey, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Mulvey 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. Mulvey and the documents admitted into evidence (Exhibits 1 through and including 10).

### Summary of Evidence:

Ms. Mulvey submitted a Tow Hearing Request Form, Exhibit 1, in which she writes that her vehicle was towed from "parking outside of my own garage." Ms. Mulvey writes that she lives in an apartment building and that there is an understanding among tenants that it is okay if someone parks in front of a garage. Ms. Mulvey writes that she believes she was ticketed and towed by a parking enforcement officer and that no one called the police regarding her vehicle. Ms. Mulvey appeared at the hearing and testified that she lives near 66<sup>th</sup> Ave. and Burnside St. in an area where there are more cars than places to park. Ms. Mulvey testified that she had permission to park in front of her neighbor's driveway while she was loading things into her car. Ms. Mulvey testified that she went into her apartment for "an hour" and when she returned her car was gone. Ms. Mulvey testified that she believed her car had been stolen, and called the police. Ms. Mulvey indicated that having her car towed from in front of her house was very stressful and that it would have been helpful if parking enforcement had left some indication that the vehicle had been towed. Ms. Mulvey submitted Exhibit 10 prior to the hearing for the Hearings Officer's consideration. Exhibit 10 is a letter purported to be from a neighbor of Ms. Mulvey indicating that Ms. Mulvey had permission to park her vehicle in front of the driveway on the day that it was towed.

The City submitted Exhibits 5 through, and including, 9 for the Hearings Officer's consideration. Exhibit 5 is a narrative report from the Office of Transportation Parking Enforcement Division. The report indicates that on June 11, 2011 two calls were received regarding Ms. Mulvey's vehicle blocking a driveway: the first at 10:04 a.m. and the second at 12:34 p.m. The parking enforcement officer writes that the first call, service request 525, had the location wrong, but contained the make and license plate number of Ms. Mulvey's vehicle. The officer

writes that he responded to service request 535 and found the vehicle blocking 1 garage door and partially blocking another. Exhibit 7 contains four photos of Ms. Mulvey's vehicle and clearly shows the vehicle blocking a portion of a driveway. The parking enforcement officer ordered the vehicle towed from SE 66<sup>th</sup> Ave. between Burnside St. and Ash St. on June 11, 2011.

**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. 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 opening 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 A permits a vehicle to be towed without prior notice and stored, at the owner's expense, when the vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic.

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

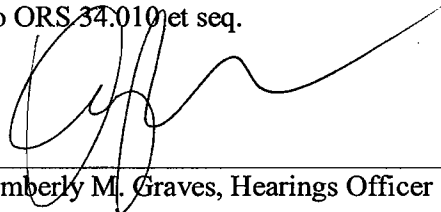
The Hearings Officer finds that SE 66<sup>th</sup> Ave. is a public right-of-way. The Hearings Officer finds that on June 11, 2011 Ms. Mulvey's vehicle was parked on SE 66<sup>th</sup> Ave. in front of a driveway in a manner which impeded the normal flow of vehicular traffic. The Hearings Officer finds the tow of Ms. Mulvey's vehicle on June 11, 2011 is valid.

**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: June 24, 2011  
KMG: jeg

  
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Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement  
Tow Number: 10383

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Mulvey, Amber	Received
2	Tow Desk printout	Hearings Office	Received
3	Hearing Notice	Hearings Office	Received
4	Statement of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Initial Service Request	Parking Enforcement	Received
9	Second Service Request	Parking Enforcement	Received
10	6/21/11 Letter from Abigail Sollars	Mulvey, Amber	Received