



# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF Lindsay Caron Epstein

CASE NO. 1120124

DESCRIPTION OF VEHICLE: Jeep Cherokee (OR VXT 698)

DATE OF HEARING: July 6, 2012

APPEARANCES:

Ms. Lindsay Epstein, Appellant

HEARINGS OFFICER: Mr. Gregory J. Frank

### FINDINGS OF FACT AND CONCLUSIONS OF LAW:

Ms. Lindsay Epstein appeared at the hearing and testified on her own behalf. No person appeared at the hearing to testify on behalf of the City. The Hearings Officer makes this decision based upon the testimony of Ms. Epstein and the documents admitted into the evidentiary record (Exhibits 1 through and including 10). Ms. Epstein stated that the vehicle subject to this hearing was released from storage prior to the hearing.

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 16.30.220 which states that:

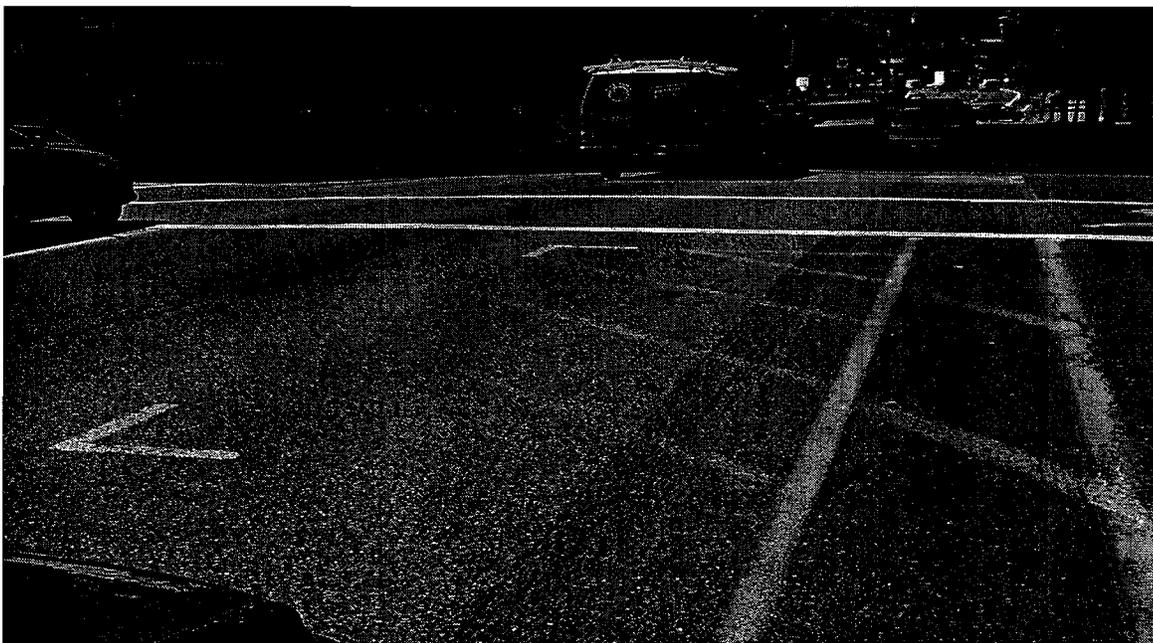
"Any authorized officer may, without prior notice, order a vehicle towed, when:

- B. The vehicle is illegally parked in a conspicuously posted restricted space, zone, or traffic lane where parking is limited to designates classes of vehicles or is prohibited in excess of a designated time period, or during certain hours, or on designated days, or at any time and place the vehicle is interfering or reasonably likely to interfere with the intended use of such a space, zone, or traffic lane."

Ms. Epstein testified that she parked her vehicle (Jeep Cherokee – Oregon VXT 698), on July 3, 2012, in a location identified on Exhibit 10 with the letter “x.” Ms. Epstein state that the location where she parked is marked with faded diagonal lines and also “L” shaped lines at the corners. Ms. Epstein stated that the location where she parked on July 3, 2012 is marked with paint in such a way that it appears to be a legal parking space. Ms. Epstein stated that the location where she parked her vehicle on July 3, 2012, is on SW Broadway and separated from the curb by a “cycle track.” Ms. Epstein stated that there are signs, located on posts, on the sidewalk side of the curb. Ms. Epstein stated that she believed the signs located on the sidewalk side of the curb related to a prohibition to park within the “cycle track.”

The Hearings Officer asked Ms. Epstein if she had any objection to the Hearings Officer conducting a “site view.” The Hearings Officer explained that a “site view” would include the Hearings Officer personally inspecting the location from which Ms. Epstein’s vehicle was towed on July 3, 2012. The Hearings Officer indicated to Ms. Epstein that the “site view” would likely determine whether the Hearings Officer believed the signage in the vicinity of SW Broadway and SW College was conspicuously posted. Ms. Epstein granted permission to the Hearings Officer to conduct a “site view.”

The Hearings Officer conducted the “site view” at approximately 11:30 a.m. on July 6, 2012. The Hearings Officer took three photographs. The photographs, immediately below, show the location where Ms. Epstein parked her vehicle on July 3, 2012. The roadway to the left of the parking location is SW Broadway and the cross street at the top of the picture is SW College. Traffic on SW Broadway travels south at this location (top of photo is south).



The photograph immediately below shows the location where Ms. Epstein parked (to the left) and signs located on the sidewalk side of the curb.



The final photograph is taken from approximately SW Hall and SW Broadway. The location where Ms. Epstein parked, on July 3, 2012, is in front of the two parked vehicles.



The Hearings Officer finds that along SW Broadway, in the vicinity of SW College Street, the traffic, pedestrian and bicycle configuration is rather unusual for the City of Portland. Typically, in Portland, parking is located immediately adjacent to a curb. However, in this location, a bicycle lane ("cycle track") is located immediately adjacent to the curb. Immediately to the left of the "cycle track" is a pedestrian lane. To the left of the pedestrian lane is an auto parking strip. Finally, to the left of the parking strip are the SW Broadway travel lanes.

The Hearings Officer finds that the middle photograph, above, shows two no parking signs. Each of the no parking signs has an arrow which creates a zone where parking is not allowed. The Hearings Officer notes that the southerly sign is identified on Ms. Epstein's diagram (Exhibit 10) as a circle with a diagonal line through a

letter "P". The middle photograph also shows a "pay station" that is also identified on Ms. Epstein's diagram (Exhibit 10).

The Hearings Officer agrees with Ms. Epstein that the location where she parked, as shown in the top photograph, has "L" shaped corner markings and faint diagonal markings. The Hearings Officer agrees that the "L" shaped corner markings do create a designated space. However, the Hearings Officer finds that while Ms. Epstein's interpretation that the "L" shaped corner markings create a legal parking space is plausible, the Hearings Officer concluded that the markings actually create a space where parking is not allowed.

The Hearings Officer, when looking south (bottom photograph), notes that the "cycle track" is space reserved at all times for the passage of bicycles and the pedestrian strip is reserved at all times for pedestrians. The Hearings Officer finds that the only possible legal location to park a vehicle would be in the parking strip (to the left of the pedestrian strip). The Hearings Officer finds signage seen in the bottom photograph (bus zone) and in the top photograph (no parking at any time zone) relate solely to the parking strip and not to the "cycle track" or the pedestrian strip.

The Hearings Officer finds that the two no parking signs shown in the middle photograph are in close proximity to a Pay to Park sign and a Pay Station. The Hearings Officer finds that the Pay to Park sign and the Pay Station relate to the vehicle parking strip and not to the "cycle track" or the pedestrian strip. The Hearings Officer finds that the two no parking signs shown in the middle photograph clearly and conspicuously apply to the space where Ms. Epstein parked on July 3, 2012. The Hearings Officer finds Ms. Epstein's argument that the two signs in the middle photograph apply to the "cycle track" is not persuasive.

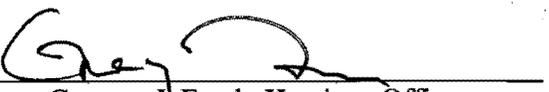
The Parking Enforcement Officer who ordered Ms. Epstein's vehicle towed on July 3, 2012, submitted various documents into the evidentiary record. (Exhibits 5, 6, 7, 8 and 9) The Hearings Officer finds the statements and diagrams made by the Parking Enforcement Officer in Exhibit 5 to be credible and consistent with the Hearings Officer's observations as noted above. The Hearings Officer did not rely upon the photographs supplied by the Parking Enforcement Officer as they were of extremely poor quality.

Based upon the above, the Hearings Officer finds that the tow of Ms. Epstein's vehicle (Jeep Cherokee – Oregon VXT 698) on July 3, 2012, is valid.

ORDER:

1. The City of Portland ordered tow of Ms. Epstein's vehicle (Jeep Cherokee – Oregon VXT 698), on July 3, 2012, is valid.
2. All towing and storage charges against the vehicle shall remain the responsibility of the vehicle's owner.
3. This order may be appealed to a court of competent jurisdiction pursuant to ORS 34.010 et seq.

Dated: July 6, 2012  
GJF: c2

  
Gregory J. Frank, Hearings Officer

Enclosure

Bureau: Parking Enforcement  
Tow Number: 1496

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Epstein, Lindsay Caron	Received
2	Tow Desk printout	Hearings Office	Received
3	Notice of Hearing	Hearings Office	Received
4	Statement of Rights and Procedures	Hearings Office	Received
5	Tow Hearing Report	Parking Enforcement	Received
6	Parking Violation #HA11182538	Parking Enforcement	Received
7	Photos	Parking Enforcement	Received
8	Photo	Parking Enforcement	Received
9	Photo	Parking Enforcement	Received
10	Diagram	Epstein, Lindsay Caron	Received