



CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

Hearings Office

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HEARINGS OFFICER'S ORDER

APPEAL OF EMILIE MCDONALD

CASE NO. 1120129

DESCRIPTION OF VEHICLE: Honda Accord (OR 090CVL)

DATE OF HEARING: July 19, 2012

APPEARANCES:

Ms. Emilie McDonald, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. McDonald 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. McDonald and the documents admitted into evidence (Exhibits 1 through and including 7).

Summary of Evidence:

Ms. McDonald submitted a Tow Hearing Request Form, Exhibit 1, regarding the tow of her vehicle on July 10, 2012. Ms. McDonald writes, "The sign was blocked by a car. I parked in the evening and was not aware that this was a loading zone because cars were parked there. The sign when I did see it the next day is confusing." Ms. McDonald appeared at the hearing and testified that she just moved to the area and the signage was difficult to discern. Ms. McDonald testified that she saw a Zone L permit sign at the end of the block, and assumed that she could park anywhere on the block. Ms. McDonald testified that she did not see the loading zone sign behind her car because it was blocked by another vehicle. Ms. McDonald testified that she simply did not see the loading zone sign in front of her car. Ms. McDonald testified that when she did see the signs, after her vehicle had been towed, she found them to be confusing. Ms. McDonald testified that she saw a Zone L sign and a loading zone sign posted together on one post. Ms. McDonald testified that she found this to be confusing and doesn't believe that the two signs should be posted on the same sign post.

The City submitted Exhibits 5 through, and including, 7 for the Hearings Officer's consideration. Exhibit 5 is a Tow Hearing Report indicating that Ms. McDonald's vehicle was towed on July 10, 2012 at 7:35 a.m. from the southside of NW Davis Street between 21st and King. The narrative portion of the report reads, "Above vehicle was towed for being in a Truck Loading Zone. The sign was very clear as seen in the pictures. Vehicles in

violation are towed immediately for pending deliveries.” Exhibit 6 is a copy of the citation issued to Ms. McDonald when her vehicle was towed. Exhibit 7 contains three photos of Ms. McDonald’s vehicle prior to towing. The photos show Ms. McDonald’s vehicle parked next to a telephone/electrical pole that has a Loading Zone/No Parking sign attached to it. The sign, based on Exhibit 5, indicates that parking is prohibited Monday through Saturday between 7:00 a.m. and 6:00 p.m.

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 16.20.220B provides that only the following vehicles, while being actively loaded or unloaded, may park in a truck loading zone for no more than 30 minutes: 1. A truck ; 2. A vehicle defined by its DMV registration as a truck, van, or pick-up that exhibits the commercial nature of the vehicle; 3. A passenger or other vehicle with an official commercial loading permit; 4. Any vehicle with Farm Vehicle registration plates; 5. Taxicabs. PCC 16.30.210A1 permits a vehicle to be towed if it is parked in violation of a temporary or permanent parking restriction. 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.

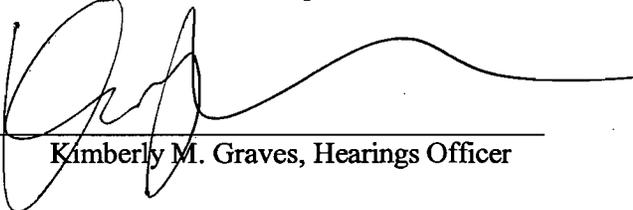
Findings of Fact and Conclusions of Law:

The Hearings Officer finds that on July 10, 2012, Ms. McDonald parked her vehicle on a public right-of-way in an area which was designated as a loading zone. The Hearings Officer finds that Ms. McDonald’s vehicle is not permitted under the PCC to park in a loading zone. The Hearings Officer finds that Ms. McDonald’s vehicle impeded the normal flow of vehicular traffic into and out of the loading zone. The Hearings Officer finds the tow of Ms. McDonald’s vehicle 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.



Kimberly M. Graves, Hearings Officer

Dated: July 24, 2012
KMG:c1

Enclosure

Bureau: Parking Enforcement
Tow Number: 10812

Exhibit #	Description	Submitted by	Disposition
1	Tow Hearing Request Form	McDonald, Emilie	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	Photos	Parking Enforcement	Received