

# CITY OF PORTLAND

Office of City Auditor LaVonne Griffin-Valade

## Hearings Office

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## HEARINGS OFFICER'S ORDER

APPEAL OF LYNDE PAULE

CASE NO. 1120241

DESCRIPTION OF VEHICLE: Mercedes-Benz C230 (OR ZRA725)

DATE OF HEARING: December 20, 2012

APPEARANCES:

Ms. Lynde Paule, Appellant

HEARINGS OFFICER: Ms. Kimberly M. Graves

Ms. Lynde Paule 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. Paule and the documents admitted into evidence (Exhibits 1 through and including 8).

### Summary of Evidence:

Ms. Paule submitted a Tow Hearing Request Form, Exhibit 1, with an attachment, regarding the tow of her vehicle on November 28, 2012. Ms. Paule also submitted a travel itinerary, Exhibit 2, with her tow hearing request. Ms. Paule indicates, in Exhibit 1, that she believes the tow of her vehicle is invalid because she did not receive any "advance notification that the streets would be cleaned on November 28, 2012." Ms. Paule writes that she left her home on November 26, 2012 for a business trip and that she did not return until December 1, 2012. Ms. Paule writes that her "issue" is not that the tow is invalid, but is instead "whether residents in my neighborhood had been alerted about the street cleaning prior to the signboards being posted." Ms. Paule appeared at the hearing and testified that in the past she and her neighbors have received notice from the city about when street cleaning would occur. Ms. Paule testified that she checked with neighbors after her car was towed, and they all indicated that they had not received any notice about the street cleaning. Ms. Paule testified that she would have made different arrangements for her car, if she had known that street cleaning was going to occur.

The City submitted Exhibits 6 through, and including, 8 for the Hearings Officer's consideration. Exhibit 6 is a Tow Hearing Report indicating that Ms. Paule's vehicle was towed on November 28, 2012 at approximately 8:00 a.m. from NW Overton St between 25<sup>th</sup> and 26<sup>th</sup>. The narrative portion of the report reads "The vehicle was cited

& towed per our usual tow procedures. Barricades were verified 2 days prior to the sweep. Vehicles are not to be left on the street for extended time limits for just this reason." The report indicates that the city verified that the signs were properly placed on November 26, 2012 at 1:39 p.m. Exhibit 7 is a copy of the parking citation issued when the vehicle was towed. Exhibit 8 contains 3 photos related to the tow of the vehicle. The photos show the vehicle parked next to a temporary no parking sign. The sign appears to be posted adjacent to the front bumper of the vehicle. The temporary parking sign is not clear enough in the photos to be read; however, the citation indicates that the temporary signage read "No parking 7:30-10 am. Wednesday."

**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 16.20.170 provides that "no person may store . . . a vehicle . . . on public right-of-way or other public property in excess of 24 hours without permission . . ." PCC 16.30.210D provides that temporary parking restrictions may be enforced by tow 24 hours after placement in any non meter area. PCC 16.30.210A1 provides that a vehicle may be towed from any public right-of-way when the vehicle is parked in violation of a temporary or permanent parking restriction. PCC 16.30.220B provides that an authorized officer may tow a vehicle, without notice, when the vehicle is illegally parked in a conspicuously posted restricted space.

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

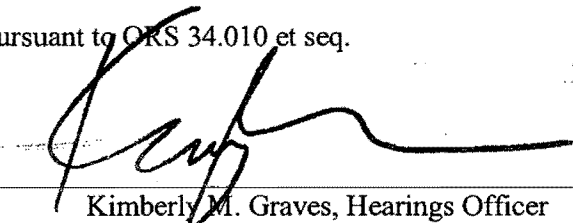
The Hearings Officer finds that on November 26, 2012 at 1:39 p.m. temporary no parking signs were placed on NW Overton indicating a temporary parking restriction for November 28, 2012. The Hearings Officer finds that the signs were placed greater than 24 hours prior to the enforcement time listed on the signs. The Hearings Officer finds that on November 28, 2012, during the enforcement time listed on the signs, Ms. Paule's vehicle was parked in the area which was subject to the temporary parking restriction. The Hearings Officer finds that on November 28, 2012 a temporary no parking sign was conspicuously posted next to Ms. Paule's vehicle. The Hearing Officer finds that the parking enforcement officer who ordered the tow of Ms. Paule's vehicle followed the relevant rules/laws in the Portland City Code when making that order. The Hearings Officer finds the tow of Ms. Paule'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.

Dated: December 21, 2012  
KMG:cl/ml

  
Kimberly M. Graves, Hearings Officer

Enclosure

Bureau: Parking Enforcement  
Tow Number: 18657

<b>Exhibit #</b>	<b>Description</b>	<b>Submitted by</b>	<b>Disposition</b>
1	Tow Hearing Request Form	Paule, Lynde	Received
2	Carlson Wagonlit Travel Itinerary	Paule, Lynde	Received
3	Tow Desk printout	Hearings Office	Received
4	Hearing Notice	Hearings Office	Received
5	Notice of Rights and Procedures	Hearings Office	Received
6	Tow Hearing Report	Parking Enforcement	Received
7	Parking Violation	Parking Enforcement	Received
8	Photos	Parking Enforcement	Received