Agenda	Item	Number

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X	HOII	Call	Null	INC

Date	July 10, 2006

63

PUBLIC HEARING ON VEHICLES IMPOUND OF TODD HOLM

WHEREAS, Todd Holm, 3531 Pierce Street NE Minneapolis, Minnesota, filed an appeal of his vehicle's impound for illegal parking and the Des Moines Hearing Officer denied said appeal; and

WHEREAS, Mr. Holm requested an opportunity to address the City Council on the matter of his appeal; and

WHEREAS, Mr. Holm has been provided with the opportunity to address the City Council on the matter of his appeal; and

WHEREAS, Mr. Holm's vehicle was parked illegally; NOW THEREFORE,

BE IT RESOLVED (Choose one of the two alternatives):

Alternative One: That the order of the hearing	ng officer be upheld TO UPHOLD DECISION
Alternative Two: That the order of the	hearing officer be reversed and a
Certificate of No Probable Cause be issued to Mr. Holm. MOVED BY	TO REVERSE DECISION

FORM APPROVED:

Katharine Massier Assistant City Attorney

K. Massen

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BROOKS				
COLEMAN				
HENSLEY				
MAHAFFEY				
KIERNAN				
VLASSIS				
TOTAL				

......Mayor

MOTION CARRIED

APPROVED

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

rk
r

June 14, 2006

Todd Holm 3531 Pierce Street NE Minneapolis, MN 55418

Re: Appeal of Vehicle Impound

Dear Mr. Holm:

This letter is to acknowledge receipt of your fax of June 12, 2006, requesting an appeal before the City Council regarding the Hearing Officer's decision in reference to your vehicle impound.

Your hearing has been scheduled for the City Council agenda on July 10, 2006. The information you provided for your administrative hearing and a transcript of the actual hearing will be considered at that time. A copy of the resolution with the decision by the Council will be forwarded to you.

If you have any questions regarding this matter, please contact this office.

Sincerely,

Diane Rauh City Clerk

DR:kh

cc: Hearing Officer
Assistant City Attorney
Su Donovan
Chief McCarthy

ione Pouch



DIANE RAUH CITY CLERK CITY HALL – 2ND FLOOR 400 ROBERT D. RAY DRIVE DES MOINES, IOWA 50309 –1891 (515) 283-4209 FAX (515) 237-1645 www.dmgov.org

PARKING TICKETS AND DOG LICENSES (515) 283-4125

BUSINESS LICENSES (515) 283-4233

ALL-AMERICA CITY 1949, 1976, 1981 2003

Todd Holm 3531 Pierce St NE Minneapolis, MN 55418 612/789-8514 (7-4 M-F) 612/789-5231 (Evenings)

6/12/06

FAX: (515) 237-1645

TO: City Clerk's Office 400 East First Street Des Moines, IA 50309

RE: REQUEST CITY COUNCIL APPEAL of Case # 06-18793 (Tag: 261235)

June 8, 2006, an Administrative Hearing was held. LeAnn Ducey was the Hearing Officer who decided that the signage (where my car was towed from) was clear.

I BEG TO DIFFER.

I would request that you retrieve the information and photos that I sent in for the Administrative Hearing.

I have been driving for 32 years. In all this time, my understanding of road signs was that they apply in the order that they appear IN THE FLOW OF TRAFFIC.

I am not from Des Moines.

On Friday, May 12, 2006, I drove from Minneapolis to Des Moines to pick up my son from his first year at Drake University. I exited Westbound 235 at MLK Drive going North. Turned West onto University to 30th Street. Turned North onto 30th St to Forest Ave. Turned East onto Forest. I DID NOT pass a sign that said "No Parking 7AM-9AM" and the one I saw (in the pictures) is East of where I parked.

...One can see (from my photos) that the signs (IN ORDER...IN THE FLOW OF TRAFFIC...West to East read:

- 1. NO PARKING BUS STOP
- NO PARKING CORNER TO HERE
- 3. NO PARKING 7AM-9AM

I parked BETWEEN sign #2 & sign #3.

My only LOGICAL INTERPRETATION of this is that there is NO PARKING from the CORNER of 30th to HERE (sign#2...in the flow of traffic...WEST to EAST). There is NO INDICATION (through arrows or any other indicator) that sign#3 EAST OF WHERE I PARKED controlled West of itself (AGAINST the Flow of Traffic) including the spot that I parked in.

If (as LeAnn Ducey said) "The entire South Side of Forest Avenue is No Parking 7-9AM", How am 1 to know this? I NEVER PASSED A SIGN THAT SAID THAT.

IF THAT WAS THE CITY'S INTENT...I suggest an additional "No Parking 7-9AM" sign be added to the pole that sign #2 is posted on. This would clarify the state of Parking Restriction that my car was towed away under. In my opinion the area between sign#2 & sign#3 is CURRENTLY UNRESTRICTED.

The Driveway "For Drake Service Vehicles Only" is East of where I parked.. It is a DRIVEWAY NOT A STREET CORNER and so the "No parking Corner to Here" WOULD NOT apply from Sign #2 to the East.

Across the street (North Side of Forest) No Parking IS CLEARLY MARKED (as shown in Photos 6 & 7).

I hereby request a review by the City Council and I would hope the City Council would understand my thinking.

I am not a scofflaw, just a confused Out-of-State Parent of a Drake University student.

Thank You

Todd Holm

ADMINISTRATIVE HEARING TRANSCRIPT June 5, 2006 Todd Holm

HEARING OFFICER LEANN DUCEY: So we are just gonna go ahead and act like we're having the regular hearing. Good morning. My name is LeAnn Ducey and I am an Administrative Hearing Officer. It is 8:50 a.m. on June 5, 2006 and we are conducting an administration hearing on a vehicle impound. The appellant is Todd Holm. When I call you to give testimony today please come up to the podium, speak into the microphone and state your full name and address for the record. You will then be sworn in. This is an informal hearing and to that matter the hearing is now open. Would the representative from the City please come forward, identify yourself and present any information you have pertaining to this hearing.

JAMES ERVIN: James Irwin. I'm with the Police Department.

HEARING OFFICER LEANN DUCEY: Please raise your right hand. Do you Officer James Ervin, swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

JAMES ERVIN: I do.

HEARING OFFICER LEANN DUCEY: Go ahead.

JAMES ERVIN: Ok, on the 12th of May at about 7:22 hours, I check my 7 to 9 zones every morning and in the 2900 block of Forest was a gray Toyota Camry with Minnesota plates that was in the 7 to 9 zone. So I, uh, uh, towed the vehicle out of that area. There is a 7 to 9 zone sign right in front of the vehicle. The 7 to 9 zones have been there for years. It's just, uh, because of the traffic flow is mainly why the 7 to 9 zones are there. It is very heavy in the morning, so we have to remove the vehicles that are, uh, obstructing the traffic, so. But it was impounded, reference the 7 to 9 zone, and issued a summons.

HEARING OFFICER LEANN DUCEY: Ok. Why don't you stay there. I'm going to read, uh, what Mr. Holm sent. Uhm, on his request for administrative hearing, he says the reason for appeal, I believe my car was improperly towed because of signage, see accompanying photos, did not indicate that there was parking 7 to 9 a.m. between the no parking corner to here sign and the no parking 7 a.m. to 9 a.m. sign. My interpretation was that there was no restriction on parking between these signs. I approached Forest Avenue via north on 30th Street to east on Forest. I did not travel either direction west of 30th Street. The first sign said no parking MTA bus stop followed by the two signs referenced above. My assumption was that the last sign I passed ruled in this situation in the direction of travel. So the first 7 to 9 a.m. sign was down the road from where I parked. If it had been intended to make this area between the signs no parking 7 to 9 a.m. then I suggest a no parking 7 to 9 a.m. sign be added to the wooden pole with the no parking to here sign. I request that the ticket be canceled and my \$20 administrative and

tow fees be returned. Then in the letter he also sent is pretty short. I'll read it too. Today I spoke with Linda, City Clerk's Office, oh, this is 5/16/06, and Lorna Davros in the Mayor's Office. I explained that I felt I was improperly towed from the area that is poorly or confusingly marked with parking signage. I was told that I did not have to drive back down from Minnesota that I could send the request for administrative hearing, my photos and this letter. I was told that an evaluation could be made from these materials and your own discovery. I have tried to be as clear as possible in my explanations on the request and my photos. Photo 1, photos 1 to 4 sequentially show the view from the corner of 30th and Forest proceeding eastward on Forest. I don't know, do you have copies of these photos?

JAMES ERVIN: Yea, I sure do, yea.

HEARING OFFICER LEANN DUCEY: Photo 5 shows my interpretation of why I thought it was ok to park as indicated. Photo 6 shows the view from inside the Drake service vehicle only parking lot on Forest looking to the north and west. The driveway from this lot is not a corner. Photo 7 is a close-up from photo 6 showing the much more clear signage on the north side of Forest Avenue. I exited westbound 235 at ML King Drive going north, turned west on University to 30th Street, turned north on 30th Street to Forest Avenue (cough, excuse me), turned east on Forest. I didn't pass a sign that said no parking 7 a.m. to 9 a.m. and the one I saw in the pictures is east of where I parked. I spoke to the Dean of Students at Drake. He said he'd spoken with Drake Security and no one remembered anyone being towed from there in the past 10 years. Hope you can understand my interpretation. Thank you. Todd Holm. I have reviewed these photos that he sent.

JAMES ERVIN: Uh huh.

HEARING OFFICER LEANN DUCEY: Uhm, I am going to either after work this evening or, uh, tomorrow, just drive over there and take the pictures with me. Uhm, he doesn't show his actual vehicle. He didn't take, apparently, a picture at the time.

JAMES ERVIN: What he's saying is that no parking to here sign, he said he's parked right in front of that. Well, the 7 to 9 zone is right in front of that. Whether that drive's there or not, that's just a site parking lot for Drake.

HEARING OFFICER LEANN DUCEY: Right.

JAMES ERVIN: That doesn't make any difference at all there. So, the sign isn't what 20 foot in front of him.

HEARING OFFICER LEANN DUCEY: Right.

JAMES ERVIN: So.

HEARING OFFICER LEANN DUCEY: Right. That's the way it looked to me too. Just for my own benefit I am going to drive over there.

JAMES ERVIN: Oh yea.

HEARING OFFICER LEANN DUCEY: I'm quite familiar with this area. I used to work at Park and Recreation and the signage is real similar in front of the Park and Recreation on University as it is on Forest. Uh, do you have anything else to enter into the...

JAMES ERVIN: Well, I don't know who talked to Drake Security, but, uh, uh, this Dean of Student deal. If he said he talked to Drake Security, we hook vehicles up all the time there and, uh, Drake Security is well aware of the vehicles we hook through there, so.

HEARING OFFICER LEANN DUCEY: I know it is basically through the Drake Relays and things too that there is a lot of impounding going on there. Ok, so I'm not going to rule today. What I'm going to do, like I said, is visit the site. Uhm, I'm pretty sure that I know what I'll find, but I want to be on my own anyway. So I will send a written ruling out later this week and, uh, send a copy of that to Mr. Holm.

JAMES ERVIN: Ok.

HEARING OFFICER LEANN DUCEY: Thank you for coming in.

JAMES ERVIN: Ok, we'll see you now.

June 8, 2006

Todd Holm 3531 Pierce Street NE Minneapolis MN 55418

Re: Administrative Hearing - Vehicle Impound

Dear Mr. Holm:

In response to your written appeal, the City of Des Moines convened an Administrative Hearing on June 5, 2006 at 9:00 a.m. regarding a vehicle impound (Impound Tag Number 261235). Pursuant to Section 114-485.16 of the Municipal Code, you were given an opportunity to be heard at that time.

The issue before the Hearing Officer was the removal and impoundment of an illegally parked vehicle. Section 114-485.11 of the Municipal Code states, "...[that] the police department...may remove and impound vehicles or cause vehicles to be removed and impounded when the vehicles are stopped or parked in violation of this chapter or other city ordinances and, in so doing, may employ such means as are reasonably necessary.

Officer James Ervin stated that on May 12, 2006, at approximately 7:22 a.m., he found your vehicle parked in the 2900 block of Forest Avenue in a restricted parking zone between the hours of 7 a.m. to 9 a.m. Officer Ervin issued citation number 7019429 for restricted hours parking and had your vehicle impounded.

You had previously spoken with Linda from the City Clerk's Office and Lorna Davros, the Mayor's assistant. Since you live out-of-state and it would be a hardship to attend the Hearing, you were advised you could request a Hearing and send information to be presented at the Hearing.

Officer Ervin and I were provided copies of your Request for Administrative Hearing, your letter and pictures. I read both the Hearing request and letter into the record. At the end of the Hearing, I informed Officer Ervin that I was going to visit the site of the impound before making a ruling. I visited the area in question this morning and followed the same route you supplied in your letter. I found the signs to very clear. You had also stated in your letter that the Dean of Students at Drake had spoken with Drake Security and that "...no one could remember anyone being towed from there in the last 10 years."

Vehicles are quite frequently ticketed and/or impounded in the Drake University area on both Forest Avenue and University Avenue.



DIANE RAUH CITY CLERK CITY HALL – 2ND FLOOR 400 ROBERT D. RAY DRIVE DES MOINES, IOWA 50309 –1891 (515) 283-4209 FAX (515) 237-1645 www.dmgov.org

PARKING TICKETS AND DOG LICENSES (515) 283-4125

BUSINESS LICENSES (515) 283-4233

> ALL-AMERICA CITY 1949, 1976, 1981 2003

Todd Holm June 8, 2006 Page Two

Therefore, I find probable cause was proven for the impound. You are also responsible for payment of ticket No. 7019429. You have the right to appeal the ruling to the City Council by filing an appeal with the City Clerk's Office within seven (7) days of receipt of the ruling. Your appeal must include the reason upon which you are basing your appeal. If you have questions regarding an appeal, please call the City Clerk's Office at 283-4209.



DIANE RAUH
CITY CLERK
CITY HALL – 2ND FLOOR
400 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309 –1891
(515) 283-4209
FAX (515) 237-1645
www.dmgov.org

PARKING TICKETS AND DOG LICENSES (515) 283-4125

BUSINESS LICENSES (515) 283-4233

> ALL-AMERICA CITY 1949, 1976, 1981 2003

Sincerely,

LeAnn Ducey Hearing Officer

Enclosure

Cc: Diane Rauh, City Clerk

SuAnn Donovan, Legal Police Chief McCarthy May 26, 2006

Todd Holm 3531 Pierce Street NE Mineapolis, MN 55418

Re: Administrative Hearing-Vehicle Impound-

The City of Des Moines has received timely notice of your request for an administrative hearing. Accordingly, a hearing has been set for **Monday**, **June 5, 2006**, in the City Council Chambers, south end of the second floor, **City Hall, 400 Robert D. Ray Drive**, at 9:00 AM at which time you will be provided an opportunity to present evidence.

Parking is available on the streets surrounding City Hall--you will need change to pay the parking meters. Please alert the City Clerk's Office when you arrive.

Pursuant to Section 114-485.16 of the Municipal Code, (copy enclosed), you will be given an opportunity to be heard at the hearing.

If you have questions in this regard, please call.

ione Park

Sincerely,

Diane Rauh City Clerk

DR/kh

Enclosure

cc: Hearing Officer
SuAnn Donovan, Legal Assistant
Assistant City Attorney
Staff Notification
File



DIANE RAUH CITY CLERK CITY HALL – 2ND FLOOR 400 ROBERT D. RAY DRIVE DES MOINES, IOWA 50309 –1891 (515) 283-4209 FAX (515) 237-1645 www.dmgov.org

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> ALL-AMERICA CITY 1949, 1976, 1981 2003

CITY OF DES MOINES

Office of City Clerk

To: Officer Baker

Date: May 26, 2006

Police Traffic

From: City Clerk's Office

RE: Vehicle Impound

Todd Holm, 3531 Pierce Street, Minneapolis, MN has requested an impound hearing which has been scheduled for Monday, June 5, 2006 in the Council Chambers, second floor of City Hall, 400 Robert D. Ray Drive at 9:00 A.M.

Please inform ID NO. 4449 (Officer James Ervin) of the time, date and location of the hearing. I have attached a copy of the Vehicle Impound Recovery Reports for hearing preparation. If the Police Officer is not available, please contact Karen at X1389 to make other arrangements.

Thank you for your assistance.

Dione Fourh

Diane Rauh

City Clerk

City of Des Moines Request for Ádministrative Hearing (File in the City Clerk's Office within 10 days of the vehicle impoundment)

Please print or type.

I hereby request an administrative hearing pursua the City of Des Moines.	
My vehicle was impounded on $\frac{5/12/06}{}$, case	se number and/or tag number 06-/8793.
Reason for appeal: 1 believe my car was in See accompanying photos) did not indicate the	there was no parking 7-9Am DETWEEN the
No Parking Corner to Here sign and the "No park	ing 74m-9Am sign. My interpretation was that there
was NO RESTRICTION on Parking BETWEEN these	Signs.
I approached Fort Forest Ave via North on 30	the Street to East on Forest. I did not travel
either direction) west of 3eth Street. The 1	Tign said "No Parking MTA bus Stop. Followed
by the 2 signs referenced above. My assumption	was the last sign I passed, ruled in this
Situation (in the direction of timuel). So, the 150	7AM-9AM sign was down the road from where I parked,
If it had been intended to make this are	(BETWEEN THE SIGNS) No Perking 7-9AM
then I Suggest a "NO PARKING JAM- JAM" sign E	se added to the wooden pole with the
"No Parking Corner to Here" Sign.	
I request that the ticket be cancelled and my 2	Admin fee towing Charge (\$57.24) be returned.
I understand that my failure to attend my schedul rights to such a hearing.	
5/15/06	1 SAD HA
Date	Signature
612/789-8514	TODO HOLM
Daytime Telephone	Print Name
	3531 PIERCE ST NE
Attach to this form a copy of the Customer's Invoice for the towing charge. You may also	Address
provide copies of maps, drawings, or	Minneapolis MN 55418
photographs which support your case.	City/State/ZIP

Caution: Any statement made on this form may constitute an admission on your part.

City/State/ZIP

Todd Holm 3531 Pierce St NE Minneapolis, MN 55418 612/789-8514 (7-4 M-F) 612/789-5231 (Evenings)

5/16/06

City Clerk's Office TO: 400 East First Street Des Moines, IA 50309

RE: Case # 06-18793 (Tag: 261235)

Hello,

Today, I spoke with Linda (City Clerk's Office) and Lorna Davros (Mayor's Office). I explained that I feel I was improperly towed from and area that is poorly or confusingly marked with Parking signage (see photos 1-7, enclosed).

I was told that I did not have to drive back down from Minneapolis. I could send the Request for Administrative Hearing, my photos and this letter. I was told that an evaluation could be made from these materials and your own discovery.

I have tried to be as clear as possible in my explanations on the Request and my photos. Photos 1-4 sequentially show the view from the corner of 30th and Forest proceeding Eastward on Forest.

Photo 5 shows my interpretation of why I thought It was OK to park as indicated. Photo 6 shows the view from inside the Drake Service Vehicle Only Parking Lot (on Forest) looking to the North & West. The Driveway for this Lot is not a "corner".

Photo 7 is a close-up from Photo 6 showing the much more clear signage on the North side of Forest Avenue.

I exited Westbound 235 at MLK drive going North. Turned West on University to 30th Street. Turned North on 30th St to Forest Ave. Turned East on Forest. I didn't pass a sign that said "No Parking 7AM-9AM" and the one I saw (in the pictures) is East of where I parked.

I spoke to the Dean of Students at Drake. He said he'd spoken with Drake Security and no one could remember anyone being towed from there in the last 10 years.

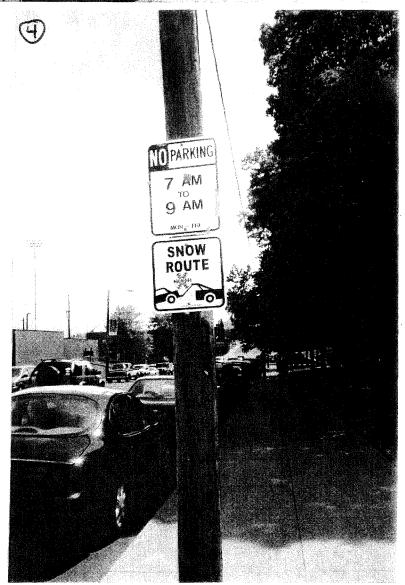
I hope you can understand my interpretation.

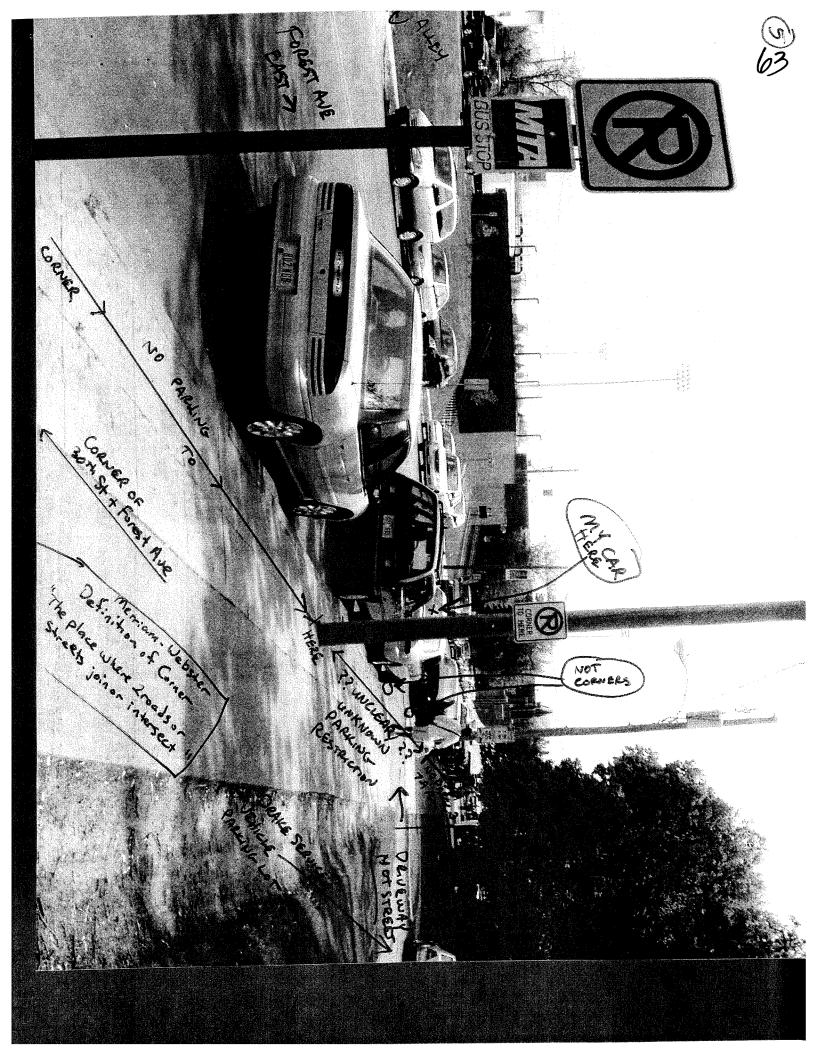
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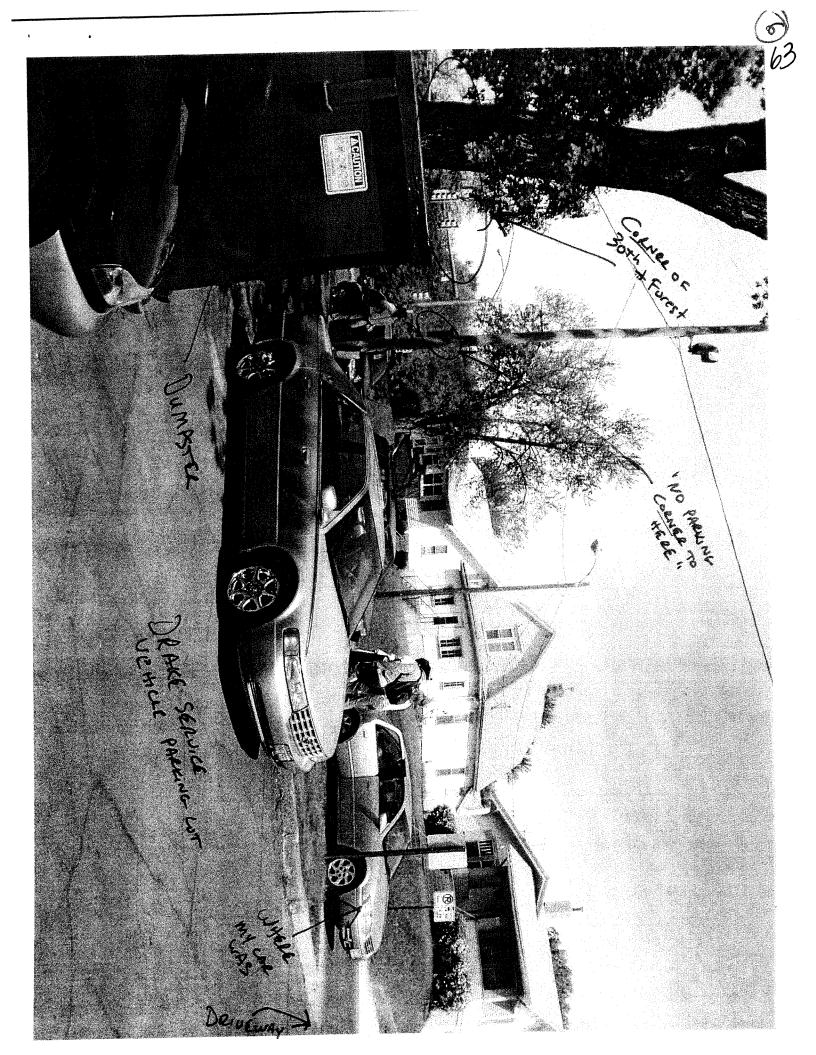












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AUTO BODY SERVICE INC.

DES MOINES, IA. 50309

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ITEM: 002 VIS SALE ACCT: XXXXXXXXXXXX4103 RESP: AUTH-TKT 07828A

OP: 00 EXP: XXXX S



City of Des Moines, Iowa Police Department

Notice of Impoundment



Fees: Impound Preservation Fee: \$20 Cash□ Other Fees: Check □ Credit Card □ How were fees paid? Receipt Number: Receipt Number:	Impound Tag Number:	Case N	Case Number / Control No OG ~ / 8 793
	eservation Fee: \$20	How were fees paid? Cash□ Check□ Credit Card□	Receipt Number:

administrative hearing to determine whether there was probable cause to impound your vehicle. or parked in violation of a City ordinance, you have a right, under City code 114-485.15 to an If your vehicle and the personal property contained within, was impounded for being stopped

Form with the City Clerk's office, at east first and locust street, within ten days of the impoundment. To exercise this right, you must file a City of Des Moines Request for Administrative Hearing

and storage of the vehicle. a bond in an amount sufficient to cover all charges attributable to the impoundment, preservation, Should you request an administrative hearing, you may reclaim your motor vehicle by posting

Probable Cause and the bond receipt. vehicle, the bond shall be refunded upon presentation to the City Treasurer of a Certificate of No If, at the hearing, the hearing officer determines there was no probable cause to impound the

contractor upon payment of all charges attributable to the impoundment, preservation, and storage Should you not request a hearing, you may claim your motor vehicle from the impoundment

within is not considered claimed until all towing and storage fees are paid to the Towing Contractor. contained within from the Towing Contractor. The vehicle and any personal property contained This is only a release, which entitles you to claim your vehicle and any personal property The issuance of this release does not automatically stop the accrual of storage fees

Des Moines, Iowa Police Department Impound Vehicle Release

Des Moines, Iowa 50309 Owen Crist Auto Body Service 1221 Keosauqua Way

Phone: (515) 244-2171

Des Moines, Iowa 50317 826 S.E. 21 Street American Towing Service

Phone: (515) 284-892

Vehicles may be claimed from 6:00 AM to 10:00PM Monday through Fiday ~~ The wookends and holidays.

CITY OF DES MOINES DEPARTMENT OF POLICE ADMINISTRATIVE SERVICES DIVISION

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AS PROVIDED FOR IN #6253 SECTION 39-10.01 AMENDED

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CITATION INFORMATION

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Print Date: 05/22/2006

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	2900 BLK FOREST	L	
Comment1:		Amount Due: \$30.00	DOT VIN:
IMPOUND TAG	G #261235		Aux2:
Comment 2:		Date Entered:	Aux3:
CASE #06-1879	93	05/16/2006	Aux4:
Comment 3:	C	omment 4:	
			Aux5:
Vehicle Informati	State:	Type: Lic. Year: Majo	or Color: Minor Color:
License Plate:	MN	1 107 GR	
TDL126			ake: Model:
Body Sytle:	Model Year: VIN:		OYT OYT
4D			
m A adjusites			
Finance Activity	ebit Paid	Action Date Paid	d Type Receipt# Void
0000	30.00	05/12/2006	
12 1			
Status Activity			
Active Date	Code	Description	
ACCIVE Date	,	-	
Related People			TitleStart TitleEnd
Name			TitleStart TitleEnd