

Date May 21, 2012

VEHICLE IMPOUND APPEAL  
OF NICK WELTHA

WHEREAS, Nick Weltha, 201 Locust Street, Apt. 134, owned a vehicle that was impounded by the City of Des Moines for illegal parking in Emergency No Parking zone; and

WHEREAS, Mr. Weltha requested and was granted an administrative hearing where he argued his case; and

WHEREAS, The Administrative Hearing Officer listened to all arguments and found that there was probable cause to impound Mr. Weltha's vehicle; and

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

WHEREAS, Mr. Weltha now has the opportunity to address the City Council; and

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

\_\_\_\_\_ Alternative One: To uphold the decision of the Administrative Hearing Officer and deny Mr. Weltha's appeal.

MOVED BY \_\_\_\_\_ TO DENY APPEAL.

\_\_\_\_\_ Alternative Two: To reverse the decision of the Administrative Hearing Officer and issue a certificate of no probable cause.

MOVED BY \_\_\_\_\_ TO GRANT APPLICATION.

FORM APPROVED:

*Katharine Massier by Mark Gali*

Katharine Massier  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
GRIESS				
HENSLEY				
MAHAFFEY				
MEYER				
MOORE				
TOTAL				

MOTION CARRIED

APPROVED

Mayor

### 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.

City Clerk

**EXHIBITS FOR VEHICLE IMPOUND**

**Nicholas Weltha  
201 Locust Street, Apt. 134  
Des Moines, IA 50309**

- |                         |  |
|-------------------------|--|
| <b><u>EXHIBIT 1</u></b> | <b>Request for Administrative Hearing<br/>Letter Setting Date of Hearing</b> |
| <b><u>EXHIBIT 2</u></b> | <b>Hearing Officer's Decision</b>  |
| <b><u>EXHIBIT 3</u></b> | <b>Appeal Request of Hearing Officer's Decision</b>                          |
| <b><u>EXHIBIT 4</u></b> | <b>Case Documents<br/>Letter Setting Council Date</b>                        |
| <b><u>EXHIBIT 5</u></b> | <b>Transcript</b>  |
| <b><u>EXHIBIT 6</u></b> | <b>Police Report and Citation</b>  |

**EXHIBIT 1**



### Parking Ticket Appeal Form

(File in the Des Moines City Clerk's Office within seven business days after the issue date of the ticket)

If you do not receive a response within 30 days, please contact the City Clerk's Office at 515-283-4125

This is an administrative review process. Please complete this form if you believe the parking ticket received by you is unwarranted because the facts alleged on the ticket fail to show an ordinance was violated or the parking meter was inoperable and you reported it within 24 hours after issue of the ticket. An administrative review panel will consider the matter and make a determination on the merits of your case. **Be complete and include any documentation and/or diagrams, as this is the only evidence that will be considered by the review panel.** A copy of the panel's decision will be mailed to you.

Questions? Contact the City Clerk's Office at 515-283-4125

Please print or type

NAME	Nick Weltha
ADDRESS	201 Locust Street Apt #134
CITY, ST, ZIP	Des Moines, IA 50309
Daytime Phone Number	515-281-9760
Alternate Daytime Phone Number	515-460-6500
Drivers License Number	819 PP 8741
Ticket Number	330075115
Date Ticket Issued	3/26/2012
License Plate Number	115 ZPH
Vehicle Description (make, model, color)	Nissan Versa Blue

Violation Type (Check One)? (Emergency)

☒ Overtime

☐ Illegal

☐ Handicapped (State Issued Permit # if applicable) \_\_\_\_\_

2012 APR - 3 PM 12:46

FILED



**REASON FOR APPEAL:**

Please attach any diagrams or photographs you would like to be considered.

(See attached)

I was given no email notification of  
maintenance work.

Caution, any statement made on this form may constitute an admission on your part.

Submit form to City Clerk's Office, 400 Robert D. Ray Drive, Des Moines, IA 50309, or Fax to 515-237-1645.

Signature Rich Webb

Today's Date 4/2/2012

If you receive a "not voided" decision, the matter may be appealed to the Polk County Associate District Court for judicial determination. If you request judicial determination, you must appear at the City Clerk's Office within seven business days of the date of the response, You must sign a promise to appear.

EXHIBIT 1

FOR SERVICE CALL 283-4973

EXHIBIT

tabbies

1

Ex. 1

# INVOICE

G & S SERVICE INC  
4100 E 16TH ST  
DES MOINES IA 50313  
515-276-1853

G & S Service, Inc/City Wide Towing

4100 E 16th Street  
Des Moines, IA 50313  
(515) 276-8068 Fax (515) 276-9256

Terminal ID: 00824180 0001

Invoice # 21019

3/26/12 11:01 AM

MASTERCARD  
ACCT #: \*\*\*\*\*9529

CREDIT SALE

UID: 208610115961 REF #: 0994

BATCH #: 096 AUTH #: 000486

AMOUNT

\$56.18

APPROVED

CUSTOMER COPY

PO #: 12-8871

Invoice Date: 3/26/2012

Released by:

Tow Tag #

## Vehicle Information:

Year: 2012

Make: Nissan

Model: Versa

Color: Blue

Lic #: 115 ZDH

VIN: COVERED

Odometer:

Owner:

## Tow Information:

Location: Locust Bridge

Des Moines,

Cross Street:

Dispatched: 3/26/2012 7:56:50 AM

Arrived: 3/26/2012 8:09:44 AM

Completed: 3/26/2012

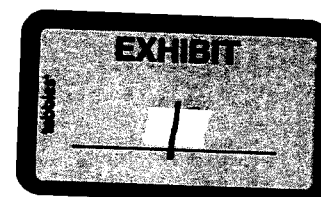
Truck Type: Flatbed

Agency:

Qty	Description	Price	Extended Price
1	Storage Day(s)	\$3.00	\$3.00
1	DMPD IMPOUND FLATBED	\$50.00	\$50.00
Sales Tax		\$3.18	
		Total	\$56.18

Certification: I the undersigned do hereby certify that I am legally authorized and entitled to take possession of the above described vehicle

Signature \_\_\_\_\_ Date \_\_\_\_\_



Ex. 1

**NOTICE OF IMPOUNDMENT**  
**DES MOINES, IOWA POLICE DEPARTMENT**

CITY OF DES MOINES  
Police Department

IF YOUR VEHICLE AND THE PERSONAL PROPERTY CONTAINED WITHIN, W  
OR PARKED IN VIOLATION OF A CITY ORDINANCE, YOU HAVE A RIGHT, U  
ADMINISTRATIVE HEARING TO DETERMINE WHETHER THERE WAS PROBA  
VEHICLE. TO EXERCISE THIS RIGHT, YOU MUST FILE A CITY OF DES MOINE  
HEARING FORM WITH THE CITY CLERK'S OFFICE AT 400 ROBERT D. RAY D  
IMPOUNDMENT. SHOULD YOU REQUEST AN ADMINISTRATIVE HEARING, Y  
VEHICLE BY POSTING A BOND IN AN AMOUNT SUFFICIENT TO COVER ALL  
IMPOUNDMENT AND STORAGE OF THE VEHICLE. IF AT THE HEARING, THE  
WAS NO PROBABLE CAUSE TO IMPOUND THE VEHICLE, THE BOND SHALL E  
TO THE CITY TREASURER OF A CERTIFICATE OF NO PROBABLE CAUSE AND  
NOT REQUEST A HEARING; YOU MAY CLAIM YOUR MOTOR VEHICLE FROM  
UPON PAYMENT OF ALL CHARGES ATTRIBUTABLE TO THE IMPOUNDMENT  
THIS IS ONLY A RELEASE, WHICH ENTITLES YOU TO CLAIM YOUR VEHICLE  
CONTAINED WITHIN FROM THE TOWING CONTRACTOR. THE VEHICLE AND ANY PERSONAL PROPERTY  
CONTAINED WITHIN IS NOT CONSIDERED CLAIMED UNTIL ALL TOWING AND STORAGE FEES ARE PAID TO THE  
TOWING CONTRACTOR. THE ISSUANCE OF THIS RELEASE DOES NOT AUTOMATICALLY STOP THE ACCRUAL OF  
STORAGE FEES.

8:06AM  
00-0002 001  
#11014

Mar 26/12  
Mittch  
CLERK

Impound Fee

\$20.00

\*TTL

\$20.00

CASH

\$20.00

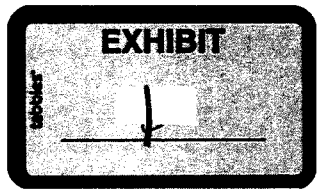
Thank You

298925

12-8871

IMPOUND TAG NUMBER

CASE NUMBER





Ex. 1



April 6, 2012

Nick Weltha  
201 Locust Street, Apt. 134  
Des Moines, IA 50309

Re: Administrative Hearing-Vehicle Impound

An administrative hearing has been set for **Monday, April 16, 2012** in the City Council Chambers, south end of the second floor, **City Hall, 400 Robert D. Ray Drive**, at **9:15 A.M.** 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.

**Note: You must bring hard copy prints of any photographs you wish to have considered as evidence to the administrative hearing. Images on cell phones and computers will not be considered as they cannot be entered into the official record.**

If you have questions in this regard, please call.

Sincerely,

A handwritten signature in black ink that reads "Diane Rauh". The signature is written in a cursive, flowing style.

Diane Rauh  
City Clerk

DR/kh  
Enclosure

cc: Hearing Officer  
Assistant City Attorney  
Staff Notification



EX 1

# CITY OF DES MOINES

## Office of City Clerk

**To:** Sgt. Beardsley  
Police Traffic  
**Date:** April 6, 2012

**From:** City Clerk's Office  
**RE:** Vehicle Impound

Nicholas Weltha, 201 Locust Street, Apt. 1, Des Moines, IA has requested an impound hearing which has been scheduled for **Monday, April 16, 2012** in the Council Chambers, second floor of City Hall, 400 Robert D. Ray Drive at **9:15 A.M.**

Please inform( **ID NO. #7430 Kim Robinson** 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.



Diane Rauh  
City Clerk



## **EXHIBIT 2**

**City of Des Moines, Iowa  
April 16, 2012 Administrative Hearing**

In re:

NICHOLAS WELTHA,  
Appellant

)  
)  
)  
) DECISION AND ORDER  
) AND  
) NOTICE OF APPEAL RIGHTS  
)  
)

Nicholas Weltha appeared in his own behalf, as the title holder of record of a 2012 blue 4-door Nissan Versa (2012 IA License No. 115 ZDH). Parking Enforcement Officer Kim Robinson, with the Des Moines Police Department ("the DMPD"), appeared on behalf of the City of Des Moines (the "City").

**Procedural History**

At approximately 7:56 AM on March 26, 2012, Parking Enforcement Officer Robinson observed a 2012 blue 4-door Nissan Versa (2012 IA License No. 115 ZDH) illegally parked at a bagged meter on the Locust Street bridge in Des Moines, Polk County, Iowa; in violation with Section 114-361.17 of the City of Des Moines Municipal Code ("the Municipal Code"). On March 26, 2012, Parking Enforcement Officer Robinson identified the owner of the vehicle as Nicholas Weltha of 201 Locust Street, Unit 134, Des Moines, Iowa (Exhibit 6); issued Citation number 330075115 (Exhibit 11); and ordered the vehicle be impounded. At approximately 8:09 AM on March 26, 2012, G&S Service, Inc/City Wide Towing arrived on scene to tow the vehicle in question to impound (Exhibit 5). On March 26, 2012, the DMPD authorized the release of Mr. Weltha's vehicle after he paid the DMPD impound fee. The DMPD also provided Mr. Weltha written notice of his right to request an administrative hearing to contest the impound of his vehicle provided his request was filed with the City Clerk within 10-days. At approximately 11:01 AM on March 26, 2012, G&S Service, Inc/City Wide Towing released Mr. Weltha's vehicle to him after he paid all storage and impound costs (Exhibit 5). On April 3, 2012, Mr. Weltha's March 28, 2012 post marked request for an administrative hearing was filed with the City Clerk's Office (Exhibits 3 & 7). On April 6, 2012, the City Clerk sent a letter to Mr. Weltha that stated his administrative hearing had been scheduled for 9:15 AM on April 16, 2012 (Exhibit 1). The matter was so heard before the Administrative Hearing Officer.

**Discussion**

The sole issue is whether there was probable cause to impound Mr. Weltha's 2012 blue 4-door Nissan Versa (2012 IA License No. 115 ZDH) on Monday, March 26, 2012. Section 114-485.17 of the Municipal Code states:

"[T]he term 'probable cause to impound' shall mean such a state of facts as would lead a person of ordinary care and prudence to believe there was a breach of law for which the vehicle may be removed and impounded under section 114-485.11 of this article."

Furthermore, Section 114-485.11 of the Municipal Code provides:

"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.”

Parking Enforcement Officer Robinson testified that there was a special Civic Center performance on Monday March 26, 2012 that called for parking thirty-five to forty school buses in the downtown area; so meters were bagged on the Sunday afternoon before the event on the south side of the Locust Street bridge and the north side of the Walnut Street bridge by order of the Chief of Police under Section 114-361.17 of the Municipal Code. Parking Enforcement Officer Robinson testified that she arrived around 7:00 AM on the day in question and observed three vehicles parked at the bagged meters on the Locust Street bridge; noting two of them moved and the third, Mr. Weltha’s vehicle, remained so it was impounded at 7:56 AM.

Section 114-361.17 of the Municipal Code provides:

“(a) The chief of police may, upon issuance of an emergency order, cause temporary no parking signs to be posted on or about streets of the city. No person shall park in violation of signs so posted.

(b) A person who violates any provision of this section shall pay a fine of \$15.00.”

Parking Enforcement Officer Robinson testified that when she arrived on the bridge on Monday morning she observed the bags were still intact on every meter along the south side of the Locust Street bridge. Parking Enforcement Officer Robinson further testified that she verified with Officer Rich, prior to impounding Mr. Weltha’s vehicle, as to whether there were vehicles parked on the bridge when he bagged the meters. Parking Enforcement Officer Robinson testified that Officer Rich noted there was only one vehicle parked on the bridge when he bagged the meters and it was in the first parking spot on the bridge closest to the Embassy Suites, which was not where Mr. Weltha’s vehicle was parked.

Mr. Weltha testified that he parked his vehicle on Sunday and contends there were no bags on the meters on the side of the street where he parked, except maybe one bag on a meter that was broken. Mr. Weltha testified that he had no parking tickets on this vehicle and no outstanding tickets. Mr. Weltha further testified that he was not certain what he actually violated since there was no notification that he should not be parking there. However as noted above, the Chief of Police can order emergency no parking at any time under Section 114-361.17 of the Municipal Code. Furthermore, there is no requirement for providing notice for a Section 114-361.17 violation, which is reasonable given emergent circumstances.

#### **Decision and Order**

By a preponderance of all evidence in the record, it is found that a person of ordinary care and prudence would have been led to believe probable cause did exist when the DMPD caused Mr. Weltha’s vehicle and its contents to be impounded. Mr. Weltha is therefore held liable for all costs and fees associated with the March 26, 2012 impound of his 2012 blue 4-door Nissan Versa (2012 IA License No. 115 ZDH) and its contents; including the \$15.00 fine and any late fees associated with Citation Number 330075115.

#### **Right of Appeal**

As provided under Section 114-485.18 of the Municipal Code, this decision may be appealed to the City Council by either the department causing the vehicle to be impounded or the registered owner or person having legal entitlement to possession of the impounded vehicle, provided a written notice of appeal is filed with the City Clerk’s Office within seven days of this decision.

Failure to file a written notice of appeal within such period shall be deemed a waiver of the right to appeal this decision to the City Council.

This written ruling is hereby submitted on this 18<sup>th</sup> day of April, 2012 in Des Moines, Polk County, Iowa. The City Clerk shall serve copies of this Decision and Order upon each of the parties.



---

Camille A. Valley  
Administrative Hearing Officer

**EXHIBIT 3**



Herzberg, Karen &lt;kmherzberg@dm.gov&gt;

---

## Appeal to Council on impounded vehicle

1 page

Rauh, Diane &lt;dirauh@dm.gov.org&gt;

Wed, Apr 25, 2012 at 2:34 PM

To: Karen Herzberg &lt;KMHerzberg@dm.gov.org&gt;, Kathy Massier &lt;KJMassier@dm.gov.org&gt;

Rena is preparing the transcript now.

----- Forwarded message -----

From: **Nick Weltha** <nick.weltha@gmail.com>

Date: Wed, Apr 25, 2012 at 1:39 PM

Subject: Administrative Hearing for Nick Weltha (Citation Number 330075115)

To: cityclerk@dm.gov.org

Cc: cavalley@dm.gov.org

Ms. Rauh,

When I came in for this administrative proceeding, I was under the impression my vehicle was towed or impounded for violating parking meter time and having outstanding tickets, possibly under someone else's name as it was a brand new vehicle and new license plate for me. Now that I realize I was towed and impounded for being parked in a spot violating Section 114-361.17, I am even more convinced I should be fighting this ticket.

Below is my transcription of the comments made by the Parking Enforcement Officer specifically regarding the bagging of the meters. Please note that at no point in her testimony (full audio attached) does she state which side of the street the bagging has been done on, despite the administrative ruling of the Hearing Officer stating that the Parking Enforcement Officer did indicate the south side of the street.

### First part of testimony

Officer Robinson: "The meters were bagged [umm] for the buses."

### Second part of testimony

Hearing Officer Valley: "Were the bags, are the bags [so] such that, are they rem-, easily removed? I know sometimes you guys have problems with them, you know disappearing after you've bagged-"

Parking Officer Robinson: "Well, Denny Rich bagged them [umm] Sunday afternoon sometime. I don't know what time. And, when I got back... when I came in on [Sun-] Monday morning they were all on there."

Hearing Officer Valley: "Ok."

Parking Officer Robinson: "No bags were missing."

Hearing Officer Valley: "Ok."

I continue to assert that there were no bags on the south side of Locust Street except possibly the one bag for a broken meter which I did not park at. All bags were on the north side of the Locust Street bridge. Additionally, because I was without a vehicle, I had the pleasure of walking by the Walnut Street bridge on my way to the police station that morning, where I observed that the south side (wrong side) of the Walnut Street bridge was bagged. I believe there was a mix-up in the bagging order. That is understandable as these errors do happen.



What is not understandable why the city would fight to not cover the costs of a citizen who was towed in error.

Secondly, I am troubled by the last two sentences prior to the Decision and Order section of the administrative ruling. It states: "However as noted above, the Chief of Police can order emergency no parking at any time under Section 114-361.17 of the Municipal Code. Furthermore, there is no requirement for providing notice for a Section 114-361.17 violation, which is reasonable given emergent circumstances."

This wording troubles me, because it would (at first glance) appear that no requirement is needed at all to impound **any vehicle** parked on **any street** at **any time** in the city of Des Moines. But the egregiousness of that interpretation notwithstanding, **I would still contend that I did not violate Section 114-361.17** for two very significant reasons.

The first reason is that Part A of Section 114-361.17 states in the first sentence: "The chief of police may, upon issuance of an emergency order, cause temporary no parking signs to be posted on or about streets of the city." It has not been established that any no parking sign/bag was on my meter. I will swear under oath that neither before, nor after the ticket's issuance was there a bag on the meter where my vehicle was parked.

The second reason is that in the second sentence of the same section it states: "No person shall park in violation of signs so posted." I would also contend that I did not perform the action of parking in violation of a sign because there was never any sign at all, regardless of the absence of a notification period.

The Parking Enforcement Officer has not confirmed under oath which side of the street the bags were on. While such a thing could be inferred as it was by the Hearing Officer, I think it is imperative to get her exact word under oath that the meter at which my vehicle was parked was bagged with a no parking sign. It would be necessary in court, so it should be necessary during this process as well.

I do not believe that I should be punished for not violating the law, so I will be presenting my case to the City Council if the Hearing Officer is still not willing to reconsider her ruling. Thanks for your time.

—  
Diane Rauh  
City Clerk  
City of Des Moines  
515-283-4209



weltha.MP3  
3580K

**EXHIBIT 4**

4/4/12 Apr. 4, 2012 1:36PM

City of Des Moines Mail - Vehicle Impound Report

EXHIBIT 4

Seybert, David <djsybert@dmgov.org>

## Vehicle Impound Report

1 message

Herzberg, Karen <kmherzberg@dmgov.org>  
To: David Seybert <DJseybert@dmgov.org>

Wed, Apr 4, 2012 at 11:34 AM

Could you please send me a copy of the VIMP Report for Case 12-8871, Impound Tag No. 298925 for Nick Weltha. I am currently scheduling for Monday, April 16. Please let me know the availability of the officer as well.

Thank you.

Karen

--  
Karen Herzberg  
Executive Administrative Assistant  
City Clerk's Office  
Phone: 515-237-1389  
Fax: 515-237-1645



Appears she is  
AVAILABLE on the 16<sup>th</sup>

Please send the notice  
TO SGT Beardsey





EX-4

**NOTICE OF IMPOUNDMENT**  
**DES MOINES, IOWA POLICE DEPARTMENT**

CITY OF DES MOINES  
 Police Department

IF YOUR VEHICLE AND THE PERSONAL PROPERTY CONTAINED WITHIN, V  
 OR PARKED IN VIOLATION OF A CITY ORDINANCE, YOU HAVE A RIGHT, U  
 ADMINISTRATIVE HEARING TO DETERMINE WHETHER THERE WAS PROB  
 VEHICLE. TO EXERCISE THIS RIGHT, YOU MUST FILE A CITY OF DES MOIN  
 HEARING FORM WITH THE CITY CLERK'S OFFICE AT 400 ROBERT D. RAY D  
 IMPOUNDMENT. SHOULD YOU REQUEST AN ADMINISTRATIVE HEARING, Y  
 VEHICLE BY POSTING A BOND IN AN AMOUNT SUFFICIENT TO COVER ALL  
 IMPOUNDMENT AND STORAGE OF THE VEHICLE. IF AT THE HEARING, THE  
 WAS NO PROBABLE CAUSE TO IMPOUND THE VEHICLE, THE BOND SHALL I  
 TO THE CITY TREASURER OF A CERTIFICATE OF NO PROBABLE CAUSE ANI  
 NOT REQUEST A HEARING; YOU MAY CLAIM YOUR MOTOR VEHICLE FROM  
 UPON PAYMENT OF ALL CHARGES ATTRIBUTABLE TO THE IMPOUNDMENT  
 THIS IS ONLY A RELEASE, WHICH ENTITLES YOU TO CLAIM YOUR VEHICLE  
 CONTAINED WITHIN FROM THE TOWING CONTRACTOR. THE VEHICLE AND ANY PERSONAL PROPERTY  
 CONTAINED WITHIN IS NOT CONSIDERED CLAIMED UNTIL ALL TOWING AND STORAGE FEES ARE PAID TO THE  
 TOWING CONTRACTOR. THE ISSUANCE OF THIS RELEASE DOES NOT AUTOMATICALLY STOP THE ACCRUAL OF  
 STORAGE FEES.

8:06AM  
 00-0002 001  
 #11014

Mar 26/12  
 MITCHF  
 CLERK

Impound Fee

\$20.00

\*TTL

\$20.00

CASH

\$20.00

----- Thank You -----

298925

12-8871

IMPOUND TAG NUMBER

CASE NUMBER

Tear Here

**IMPOUND VEHICLE RELEASE**  
**DES MOINES, IOWA POLICE DEPARTMENT**  
**IMPOUND TOWING CONTRACTOR V10-027:**  
 G&S SERVICES  
 4100 EAST 16<sup>TH</sup> STREET  
 DES MOINES, IOWA 50313  
 515-276-8068

**PAID**  
**D.M.P.D.**

Vehicles may only be claimed from 6:00 AM to 10:00 PM, Monday through Friday and from 8:00 AM to 4:00 PM weekends and holidays.

A. CASE NUMBER 12-8871

B. TAG NUMBER 298925

C. MAKE AND MODEL Nissan Versa

D. LICENSE NUMBER 115Z04

E. VIN 879000

F. RELEASED BY: 411014

G. DATE RELEASED 26 Mar 12



# Des Moines Police Department IMPOUND TOWING COST SHEET

This should be filled out by the tow truck driver providing the service.

Check off service tasks utilized below:

- ☐ Tow with wrecker \$20.00
- ☐ Second Tow with a wrecker \$75.00
- ☒ Towing with a Flatbed \$50.00
- ☐ Unlocking car doors \$25.00
- ☐ Winching \$75.00 per hour
- ☐ Unlocking linkage \$25.00
- ☐ Rehooking \$25.00
- ☐ Using a dollie \$25.00
- ☐ Towing semi truck \$175.00 per hour
- ☐ Towing semi trailer \$175.00 per hour
- ☐ Other

Please list other service tasks below:

8-3106 ON

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Case Number: 12-8871

BLAKE  
Tow Driver Signature

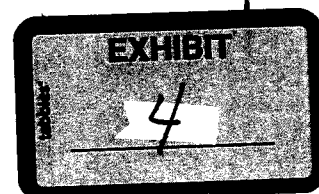
Location: LOCUST ST BRIDGE

Date/Time: 3/26/12 8:13

Vehicle Description: 2012 NISSAN VERSA BLUE

White Copy: Tow Driver  
Yellow Copy: Police Officer

11520H





April 30, 2012

Nick Weltha  
201 Locust Street, Apt. 134  
Des Moines, IA 50309

Re: Appeal of Vehicle Impound Decision

This letter is to acknowledge receipt of your email of April 25, 2012 requesting an appeal before the City Council regarding the Hearing Officer's decision in reference to your vehicle impound.

Accordingly, this matter is scheduled for hearing on **May 21, 2012** at 5:00 p.m. in the City Council Chambers, City Hall, 400 Robert D. Ray Drive. A copy of the portion of the City Code pertaining to the appeal process is enclosed for your information. **Failure to appear at the scheduled hearing will be deemed as a waiver of your rights to a hearing.**

A copy of the transcript is enclosed. If you have any questions regarding this matter, please contact this office.

Sincerely,

A handwritten signature in black ink that reads "Diane Rauh". The signature is fluid and cursive.

Diane Rauh  
City Clerk

DR:kh  
Enc.

cc: Assistant City Attorney  
Chief Bradshaw

**EXHIBIT 5**



ADMINISTRATIVE HEARING TRANSCRIPT

April 16, 2012  
City v. Weltha  
Vehicle Impound

HEARING OFFICER CAMILLE VALLEY: Good morning. It is approximately 9:15 a.m. on Monday, April 16, 2012 and my name is Camille Valley and I'm the Administrative Hearing Officer. We're conducting this hearing this morning at the request of Nick Weltha regarding the impound of a vehicle. Would the City representative please come to the microphone? Clearly state your name and the title of your position with the City.

PARKING ENFORCEMENT OFFICER KIM ROBINSON: Kim Robinson, Parking Enforcement Officer.

HEARING OFFICER CAMILLE VALLEY: Okay, would you please raise your right hand. Do you solemnly swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

PARKING ENFORCEMENT OFFICER KIM ROBINSON: I do.

HEARING OFFICER CAMILLE VALLEY: Okay. You may proceed and share with me the facts and circumstances of this case.

PARKING ENFORCEMENT OFFICER KIM ROBINSON: Uhm, we had a Civic Center performance in which 35 to 40 buses were coming downtown. Uhm, and we parked them on the Locust Street bridge and the Walnut Street bridge. The south side of Locust, north side of Walnut. The meters were bagged, uhm, for the buses. I arrived at 7:00 on Monday morning. I verified that there was cars on the Locust Street bridge. Uh, two, there was three cars. Two moved. One remained at 7:00, let me see what time I impounded them. At 7:56. Uh, the, it was right in the middle, right in the middle of the bridge where, to the west end of the bridge a little bit and I, we needed to, uh, have the vehicle moved because of the buses. Uhm, I impounded the vehicle.

HEARING OFFICER CAMILLE VALLEY: Okay. What section of the code did you, was this vehicle impounded under?

PARKING ENFORCEMENT OFFICER KIM ROBINSON: 114-361.17.

HEARING OFFICER CAMILLE VALLEY: What was the last of it?

PARKING ENFORCEMENT OFFICER KIM ROBINSON: Uh, 114-361.17.

HEARING OFFICER CAMILLE VALLEY: Okay. And there was a citation issued with this?

PARKING ENFORCEMENT OFFICER KIM ROBINSON: Yes ma'am.

HEARING OFFICER CAMILLE VALLEY: Okay. Anything further you'd like to add at this time?

PARKING ENFORCEMENT OFFICER KIM ROBINSON: No ma'am.

HEARING OFFICER CAMILLE VALLEY: All right. Thank you. Mr. Weltha would you come to the microphone and clearly state your name for the record?

NICK WELTHA: Yea. Nick Weltha.

HEARING OFFICER CAMILLE VALLEY: Okay, would you please raise your right hand? Do you solemnly swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

NICK WELTHA: Yes.

HEARING OFFICER CAMILLE VALLEY: Okay. What would you like to share with me today?

NICK WELTHA: Uhm, my vehicle was parked Sunday night. Uhm, there were no bags on the side of the street that I was parked on and actually I believe there may have been one bag. Uhm, and it was on a meter that had been broken. Uhm, additionally I was given the ticket at 7:53. I had no prior tickets with this vehicle. No outstanding tickets. And, uhm, I'm not certain of a section of the code that, uh, she mentioned. I wasn't given a copy of that, but, uhm, it was 114-...

HEARING OFFICER CAMILLE VALLEY: 361.17 is what she said.

NICK WELTHA: 361.17. Okay. Uhm, but, yea I'm not certain what I actually violated since there was no actual notification that I shouldn't be parking there.

HEARING OFFICER CAMILLE VALLEY: You said you parked on Sunday night?

NICK WELTHA: Yes.

HEARING OFFICER CAMILLE VALLEY: And then it was impounded on....

NICK WELTHA: Monday morning prior to 8:00.

HEARING OFFICER CAMILLE VALLEY: Which is when you discovered that it was gone?

NICK WELTHA: Yes. Yea.

HEARING OFFICER CAMILLE VALLEY: Okay. Anything else you'd like to...

NICK WELTHA: Uhm, like I said there was no bags on my side of, or on the side of the street that I was on.

HEARING OFFICER CAMILLE VALLEY: When you parked on Sunday?

NICK WELTHA: Yes.

HEARING OFFICER CAMILLE VALLEY: Okay. All right. Anything further?

NICK WELTHA: Nope.

HEARING OFFICER CAMILLE VALLEY: Okay. Officer, do you have anything further you'd like to add?

PARKING ENFORCEMENT OFFICER KIM ROBINSON: Uh, Officer....

HEARING OFFICER CAMILLE VALLEY: If, if you come up to the microphone. We do record this so we make sure and get it on the record.

PARKING ENFORCEMENT OFFICER KIM ROBINSON: Officer Denny Rich was the, uhm, person who bagged the meters. They were bagged on Sunday. He, I've spoke with Denny Rich. Denny Rich said that the only vehicle on the, uhm, Locust Street bridge was the first meter by Embassy Suites on the south side of the street.

HEARING OFFICER CAMILLE VALLEY: So according to his recollection this car wasn't there....

PARKING ENFORCEMENT OFFICER KIM ROBINSON: Yes, ma'am.

HEARING OFFICER CAMILLE VALLEY: ...when the meters were bagged?

PARKING ENFORCEMENT OFFICER KIM ROBINSON: I checked with him and verified that with him before impounding the vehicle.

HEARING OFFICER CAMILLE VALLEY: Were the bags, are the bags such that, are they easily removed? I know sometimes you guys have problems with them, you know disappearing after you've bagged meters.

PARKING ENFORCEMENT OFFICER KIM ROBINSON: Well, Denny Rich bagged them on Sunday afternoon sometime. I don't know what time. And when I got back, when I came in on Sun, Monday morning they were all on there.

HEARING OFFICER CAMILLE VALLEY: Okay.

PARKING ENFORCEMENT OFFICER KIM ROBINSON: No bags were missing.

HEARING OFFICER CAMILLE VALLEY: Okay. All right.

PARKING ENFORCEMENT OFFICER KIM ROBINSON: Okay.

HEARING OFFICER CAMILLE VALLEY: Thank you for your testimony. I know nothing about these cases til I hear them so I will deliberate on the testimony I've heard

today and the evidence I've received. Uhm, and I have for the, in the record, uh, there's a copy of the picture of the meter that was attached to the appeal, uhm, the invoice from Citywide Towing, uh, the impound notice, the citation, the, the vehicle impound recovery report and, uhm, then the, the, showing the payment to the, well, the cost sheet for the towing and the Des Moines Police Department impound fees so. Uhm, I will deliberate on everything, develop a written ruling which I submit to the City Clerk's Office. Then she'll make sure you get a copy. So I thank you very much for your time and testimony this morning and this case is adjourned.

I, Renae Lampkin, certify that I transcribed the minutes of the April 16, 2012 Administrative Hearing pertaining to the vehicle impound of Nick Weltha.

Renae Lampkin



April 30, 2012

Nick Weltha  
201 Locust Street, Apt. 134  
Des Moines, IA 50309

Re: Appeal of Vehicle Impound Decision

This letter is to acknowledge receipt of your email of April 25, 2012 requesting an appeal before the City Council regarding the Hearing Officer's decision in reference to your vehicle impound.

Accordingly, this matter is scheduled for hearing on **May 21, 2012** at 5:00 p.m. in the City Council Chambers, City Hall, 400 Robert D. Ray Drive. A copy of the portion of the City Code pertaining to the appeal process is enclosed for your information. **Failure to appear at the scheduled hearing will be deemed as a waiver of your rights to a hearing.**

A copy of the transcript is enclosed. If you have any questions regarding this matter, please contact this office.

Sincerely,

A handwritten signature in black ink that reads "Diane Rauh". The signature is fluid and cursive, with the first name "Diane" and last name "Rauh" clearly distinguishable.

Diane Rauh  
City Clerk

DR:kh  
Enc.

cc: Assistant City Attorney  
Chief Bradshaw

**EXHIBIT 6**

2012 MAR 25 PM 12:37

EXHIBIT 6

VEHICLE IMPOUND / RECOVERY REPORT DES MOINES, IOWA POLICE DEPARTMENT			1. OWNERS NAME (LAST, FIRST, MIDDLE) WELTHA, NICHOLAS		2. CASE NUMBER 12-8871										
16. BEAT 242		17. PROPERTY SHEET NA		3. OWNERS ADDRESS 201 LOCUST #134		4. RES. PHONE UNK		5. IMP. TAG NO. 298925							
18. METHOD OF THEFT JUMP WIRE, TOWED NA		19. KEYS LEFT? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		6. WHERE FOUND? LOCUST BRIDGE			7. DATE / TIME FOUND 26 MAR 12 / 0750								
20. RESULTING DAMAGE OR STRIPPING NA		21. GENERAL CONDITION GOOD		22. MISSING ACCESSORIES? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> EXPLAIN IN NARRATIVE		23. VEH. COLOR BLUE		24. YEAR 2012		25. MAKE NISSAN		26. MODEL VERSA		27. BODY 4D	
28. ARRESTS OR OFFENSES (1) NO PARKING EMER 330075115		(2) (ARREST / SUMMONS #)		10. LICENSE NO. 115 ZDH JAL12		11. STATE / YR IA / 12		12. VEHICLE IDENTIFICATION NUMBER 3N1CN7AP2CL879000							
29. TOWED TO G+S		30. TOW DRIVER / OWNER SIGNATURE X BLAKE		31. CRIME OR OFFENSE ILLEGAL PARKING		32. CLASSIFICATION									
33. WITNESS		34. RESIDENCE ADDRESS		35. CITY		36. RES. PHONE		37. BUS PHONE							
38. ITEM NO.		39. NARRATIVE: (1) CONTINUATION OF ABOVE ITEM NUMBERS INCLUDING ADDITIONAL INFORMATION AND WITNESSES. (2) BRIEF DESCRIPTION OF INCIDENT INCLUDING COMPLAINT IF AVAILABLE													
40. 6		41. METER BL-17													
42. 27		43. VEHICLE WAS PARKED AT A METER BAGGED FOR A CIVIC CENTER SHOW. IMPOUNDED VEHICLE IN ORDER TO HAVE ROOM FOR THE SCHOOL BUSES.													
44. 28. REPORTING OFFICER K ROBINSON		45. IDENT NO. 7430		46. CONTINUE NARRATIVE ON BACK											
47. SECOND OFFICER		48. IDENT NO.		49. DISPATCH											
50. SUPERVISOR APPROVING		51. REVIEWER K		52. RADIO BROADCAST BY DISPATCHER #		53. DATE		54. TIME							
55. INVESTIGATION STATUS <input type="checkbox"/> OPEN <input type="checkbox"/> SUSPENDED <input type="checkbox"/> CLOSED		56. CANCEL <input type="checkbox"/>		57. OPERATOR		58. DATE / TIME									
59. CLEARANCE CLASSIFICATION <input type="checkbox"/> UNFOUNDED <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> EXCEPT CLEARED		60. IOWA <input type="checkbox"/>		61. NCIC <input type="checkbox"/>											
62. UNIT REFERRED TO: CF															

**EXHIBIT**

6

**CITY OF DES MOINES**

Non-Moving Traffic Violation  
Notice of Fine

**CITATION-COMPLAINT**

In the Iowa District Court for Polk County  
(Scheduled Violations Office) Des  
Moines, Iowa; City of Des Moines, A  
Municipal Corporation, PLAINTIFF vs.

**TICKET #330075115**

LIC: 115ZDH IA

MO/YR: 06/2012 COUNTY #

VIN:

METER: BL 17

At or near:  
LOCATION:

VEHICLE: BLU NISS 4D

In the City of Des Moines, Polk County,  
Iowa, DEFENDANT did violate the  
following section of the Municipal Code  
of the City of Des Moines, Iowa:

VIOLATION :  
NO PARKING (EMERGENCY)  
SEC 114-361.17  
\$15.00

FINE: \$15.00

COMMENTS:

Pay Online at: [www.dmgov.org](http://www.dmgov.org)

PLEASE ADD \$5.00  
AFTER 30 DAYS

OFFICER: 7430

Date: 03/26/2012 Time: 07:53:17

**This citation is due within 30 days of the  
issuance. Failure to pay or appeal this  
citation (see reverse side for  
payment/appeal instructions) will result in  
the citation becoming delinquent and  
subject the motor vehicle to tow.**

Tag # 29825 Case # 12-8871  
SEE REVERSE FOR PAYMENT INSTRUCTIONS

