Towing – A Summary of California Vehicle Code § 22658

Veh. Code § 22658 establishes the requirements for removing a vehicle from private property, and dictates the manner in which an association has authority to tow vehicles from the association's common area. In order for an association to be legally permitted to tow vehicles, at least one of the following three circumstances must exist:

- 1. The association has displayed, in plain view at all entrances to the property, a sign not less than seventeen (17) by twenty-two (22) inches in size, with lettering at least one (1) inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and stating the telephone number of the local traffic law enforcement agency and the name and telephone number of each towing company that has been authorized by the association, pursuant to a towing authorization agreement, to tow from the association property.
- 2. The vehicle has been issued a notice of parking violation and ninety-six (96) hours have elapsed since the issuance of the notice. An association should ensure that all citations are dated and have the time listed on the citation.
- 3. The vehicle lacks an engine, transmission, wheels, tires, doors, windshield or any other major part or equipment that is necessary to operate the vehicle safely on the highway. Prior to towing an inoperative vehicle, the association must provide notice to a local traffic law enforcement agency and allow twenty-four (24) hours to lapse after the notification.

Requirements After Towing:

After authorizing the tow, the Association is required to notify the local law enforcement agency within one (1) hour, preferably by telephone. If the identity of the owner is known or readily ascertainable, the Board must, within a reasonable time (no more than three (3) days), notify the owner of the towing by first-class mail. If the identity of the owner is not known, and the car has not been returned to the owner within one hundred twenty (120) days, the Board must send a written report to the California Department of Justice in Sacramento.

Compliance with Statutory Towing Requirements:

Should the association fail to comply with the requirements referenced above, the association could be liable for double the cost of the storage and towing charges. In addition, the association is obligated, upon request of the legal or registered owner of the vehicle, to state the grounds for the removal of the vehicle.

This law also places obligations on the towing company. The association must make certain in its authorization with the general towing company that the obligations are required of the towing vendor so that if sued the association is in a defensible position. The tow truck operator must attempt to ascertain the name and address of the registered and legal owner of the vehicle and must immediately give notice in writing to the owner of the removal, the reasons for removal (remember, the association must answer that question if requested by the owner – this is an obligation for the towing vendor to state why removal has occurred) and the location of where the vehicle was towed. The towing company is prohibited from removing a vehicle without first obtaining written consent/approval from an association, or an employee or agent of the Association, who shall be present at the time of removal and verify the alleged violation.

Exceptions:

None of these provisions prohibit an association from towing a vehicle that is unlawfully parked within fifteen (15) feet of a fire hydrant or in a fire lane, or in a manner which interferes with the entrance to or exit from the development. The association can issue standing orders to a towing company to commence the removal of the vehicle without the presence of an association representative if the vehicle is unlawfully parked within fifteen (15) feet of the fire hydrant. The towing company is obligated to photograph the vehicle, which establishes the parking violation, and to provide a copy of that photograph to the owner when the vehicle is towed.

Towing Policy:

An association should adopt a towing policy to document the procedures for towing a vehicle parked in an unauthorized manner in the association's common area and the vehicle owner's responsibilities related to same, to ensure that all homeowners and residents are aware of same. Such a policy would be considered to be an operating rule under the California *Civil Code*, which means that prior to enacting it, the association's board is required to send the proposed towing policy, along with an explanation of its purpose and intended effect, to all of the association's members for a thirty (30) day comment period. Once thirty (30) days have passed after the members are given written notice of the proposed towing policy, the board is required to consider the comments at a board meeting prior to deciding whether to enact it. Please note that this is not a member vote; regardless of whether the members are in favor of the policy, the board can enact the proposed towing policy if the board believes that it is in the best interests of the association.