

Law Offices of  
**Law Offices of**  
 Richard A. Tinnelly  
**Richard A. Tinnelly**

Providing Legal Counsel to Community Associations Since 1989



# Legal News

March, 2007

## ***Community Association Towing Policy***

*by Terri A. Morris, Esq.*

Once again the first of the year has brought to us many new laws with which we must become familiar so as to enable us to provide service to our community association clients. The new towing legislation is a good example of a new law which seems to be causing confusion in the industry. We have attempted below to provide a simple outline of the new procedures required for towing vehicles from common interest developments.

The amendment of Vehicle Code § 22658 places more requirements and restrictions upon associations that wish to tow vehicles in violation of the governing documents, beginning January 1, 2007.

### **Associations May Continue to Tow Vehicles Parked in Violation of the Governing Documents.**

Vehicles parked on association property in violation of the parking policy may be towed under any of the following situations:

1. Signs have been posted at all entrances warning the public that the association tows unauthorized vehicles; or,
2. The vehicle has been issued a notice of parking violation and at least ninety-six (96) hours have elapsed; or,
3. The vehicle is parked on private property and lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on the highways, and the local traffic law enforcement agency is notified at least 24 hours before the vehicle is towed; or,
4. The vehicle is located on a lot or parcel with a single-family home on it

### **Signs Warning of a Towing Policy Must Include Towing Company Information.**

If the association is going to post signs in order to be able to tow vehicles, each sign must be displayed in plain view at all entrances to the association, must be at least 17 inches by 22 inches in size with lettering not less than one inch in height prohibiting public parking and warning that vehicles will be towed at the owner's expense. The sign must include the telephone number of the local traffic law enforcement agency and the names and telephone numbers of towing companies that have a towing agreement with the association. The sign may include notice of any policy of issuing citations for violations as well.

-- continued --

**The information contained in the Legal News is for educational and informational purposes only and does not constitute legal advice, nor is it meant to create an attorney-client relationship. If there are specific topics you would like to see addressed in the Legal News, please send your request to the Law Offices of Richard A. Tinnelly at [tinnelly@hoalawyers.com](mailto:tinnelly@hoalawyers.com), and we will attempt to address your issues in a future edition of the Legal News.**

Law Offices of  
**Law Offices of**  
 Richard A. Tinnelly  
**Richard A. Tinnelly**

Providing Legal Counsel to Community Associations Since 1989



# Legal News

March, 2007

## **Community Association Towing Policy - Page 2**

*by Terri A. Morris, Esq.*

### **Association Agent Required to be Physically Present to Authorize the Towing.**

Of greatest impact with regard to towing from associations are the requirements that written towing authorization must be provided by the association, and that an employee or agent of the association must be present at the time of removal of the vehicle to verify the alleged violation.

However, the person providing the written authorization who is required to be present at the time of the tow does not have to be where the vehicle to be towed is located. Accordingly, the board president or other representative of the Association authorizing the tow may meet the towing company elsewhere on the property to provide written authorization for towing the vehicle, such as at the president's residence or the guard gate.

### **Written Towing Authorization.**

The written authorization to be provided to the towing company must include the following:

1. the make, model, vehicle identification number, and license plate number of the removed vehicle;
2. the name, signature, job title, residential or business address and working telephone number of the person authorizing the removal of the vehicle;
3. the grounds for the removal of the vehicle;
4. the time when the vehicle was first observed parked at the private property; and,
5. the time that authorization to tow the vehicle was given.

If requested, the towing company must provide a copy of the written authorization to the vehicle owner, but the information provided under section (b) must be redacted from the copy provided to the vehicle owner.

### **General Authorization to Remove Vehicles On Limited Basis Only.**

In order for a towing company to tow vehicles at its own discretion (i.e. without written authorization and personal appearance of an agent or employee of the association) from a fire lane, parked within 15 feet of a fire hydrant, or in a manner that interferes with an entrance to, or an exit from, the private property, the Association must have a written agreement with the towing company granting it such general authorization.

### **Association Liability for Damage to a Towed Vehicle.**

The owner of a vehicle removed from private property as outlined above may recover for any damage to the vehicle resulting from any intentional or negligent act of a person causing the removal of, or removing the vehicle. An association causing the removal of a vehicle parked on that property is liable for double the storage or towing charges where there has been a failure to comply with the posting of a proper sign at all entrances, or issuing a notice of parking violation and waiting 96 hours before towing, or notifying the local traffic law enforcement agency and waiting 24 hours before towing a vehicle that lacks major equipment to operate safely. These damages are also available if there is a failure to provide the grounds for the removal of a vehicle if requested by the legal or registered owner of the vehicle.

-- continued --

The information contained in the Legal News is for educational and informational purposes only and does not constitute legal advice, nor is it meant to create an attorney-client relationship. If there are specific topics you would like to see addressed in the Legal News, please send your request to the Law Offices of Richard A. Tinnelly at [tinnelly@hoalawyers.com](mailto:tinnelly@hoalawyers.com), and we will attempt to address your issues in a future edition of the Legal News.

Law Offices of  
**Law Offices of**  
 Richard A. Tinnelly  
**Richard A. Tinnelly**

Providing Legal Counsel to Community Associations Since 1989



# Legal News

March, 2007

## **Community Association Towing Policy - Page 3**

*by Terri A. Morris, Esq.*

### **Towing Company Responsibilities.**

Once a towing company has removed a vehicle from private property, it must be reported within one (1) hour to the local traffic law enforcement agency that the vehicle has been towed and where it is stored. Towing companies must try to ascertain the name and address of the registered and legal owner of the vehicle and immediately give written notice that the vehicle has been removed, the grounds for the removal, and the location where the vehicle has been removed to. A copy of the written authorization to tow must be given to any storage facility where the vehicle is left, and must include the time of removal and the mileage on the vehicle at removal.

If the tow truck operator is unable to give notice to the registered owner, and the vehicle is not returned to its owner within 120 hours, a written report of the removal must be sent immediately to the Department of Justice at Sacramento, in compliance with California Vehicle Code section 22853.

Vehicle Code § 22658 places further restrictions on the towing companies with regard to the fees that they charge, releasing vehicles that have not been removed from the property yet, and taking credit cards to pay towing and storage charges.

The information contained in the Legal News is for educational and informational purposes only and does not constitute legal advice, nor is it meant to create an attorney-client relationship. If there are specific topics you would like to see addressed in the Legal News, please send your request to the Law Offices of Richard A. Tinnelly at [tinnelly@hoalawyers.com](mailto:tinnelly@hoalawyers.com), and we will attempt to address your issues in a future edition of the Legal News.

Law Offices of Richard Tinnelly - [www.hoalawyers.com](http://www.hoalawyers.com) - Main Office - 85 Argonaut, Suite 100, Aliso Viejo, CA 92656  
 Phone - Aliso Viejo Office: 949-588-0866 - Coachella Valley Office: 760-862-9835 - San Diego County Office: 858-550-0866