

Avoid Confusion

Towing of Vehicles from Association Property

BY LAURI CROCE STREETER, ESQ.



The California Vehicle Code, Section 22658, applies to all private property owners, including community associations, with

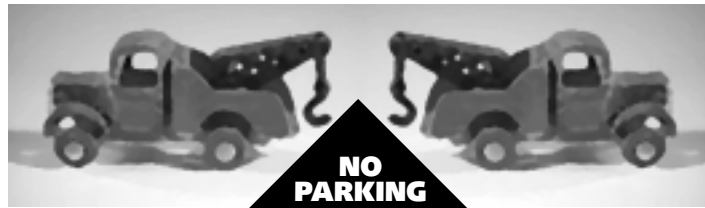
respect to all illegally parked cars on private property (whether the cars themselves are owned by association members or not). Section 22658 generally states that a private property owner can have an illegally parked car towed if one of the following occurs:

- An appropriate sign is posted that cars improperly parked will be towed at owner's expense ... *OR*
- The car owner is given 96-hours' notice that the car will be towed ... *OR*
- The vehicle is inoperable ... *OR*
- The lot or parcel upon which the vehicle is located is improved with a single-family home.

Any one of these four criteria will serve as a legitimate basis for towing. Moreover, Vehicle Code Section 22658.2 provides an *additional legitimate basis for towing* if the private property owner is a community association that chooses to rely upon signs posted at the

entrances to the development as the basis for its towing decisions.

In other words, if a private-association-owner wants to use the first basis



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described in Section 22658 for towing, above, it must following the specific rules of Section 22658.2, which include both the posting of signs and the sending of notice after towing.

Note that according to the United States District Court for the Southern District of California sitting in San Diego, the association is *not* required to give its authorization for towing each and every time the tow-truck operator comes to remove an illegally parked car. The association's general authorization to the tow-truck operator is sufficient.

Be sure that your association's published Rules and Regulations do not inadvertently alter the rights and obligations of the association with respect to the towing of members' or their tenants' vehicles. More often is the case that the Rules and Regulations are not meant to apply to towing at all. Usually the Rules and Regulations will apply to members only, but the towing statutes apply to all persons who avail themselves of parking spaces – regardless of whether the person is a member of the association or not. Hence, the least confusing course of action is to make sure your Rules & Regulations are precisely consistent with

the statutes, and limit all towing references in the Rules & Regulations to Vehicle Code Sections 22658 and 22658.2, by either directing members to the statutes, or paraphrasing or quoting the statutes *verbatim*.