



When is Private Property Towing Protected by Law?

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Every property manager understands that before a contractor can perform work they need to verify their business license, contractor's license, W-9, certification of liability and workers compensation insurance, and signed job contract. Towing companies are not licensed by the State of California; they do not have a State Contractors License; but, there are qualifying documents that should be verified.

State law, CVC 22658, allows each local city jurisdiction to regulate the licensing of tow companies and drivers, and control fees. In addition to the basic business license and insurance requirements, performing nonconsensual towing requires compliance with both local zoning ordinances and DMV Lien Sale regulations for the disposition of unclaimed vehicles. In most cities a "Public Auction", in accordance with DMV regulations, will require a Special Use Permit which includes compliance for the facilities with Americans with Disabilities Act and California Environmental Quality Act, for health and safety reasons to protect the public. Although only a few tow companies comply with these regulations for nonconsensual towing, they are still approved to provide public roadside services, and perform CHP and some city emergency rotation towing. I cannot tell you why there is no DMV, CHP or city enforcement of these regulations for nonconsensual towing, other than a lack of funding, but there failure to enforce the regulations is no excuse for property managers to passively ignore the regulations for the purpose of their private property towing.

What are the consequences if the tow company is not in compliance with DMV and local zoning regulations for proper disposition of unclaimed vehicles?

- If a tow company does not sell the vehicle at a public auction within five days, as required by DMV HTVR7, the residual value of the vehicle is not legally established. If the property manager had the vehicle towed, it is their responsibility verify the tow company has the ability to obtain the legal residual value of that vehicle on behalf of the registered owner.
- If the tow company is not in compliance with the Public Auction regulations for Americans with Disabilities Act and California Environmental Quality Act, they would not meet health and safety regulations to protect the public. The property manager needs to verify that the facilities, where they require their residents to claim their vehicles, are in compliance with the basic health and safety regulations.

Once the tow company can verify they have a current Special Use Permit for their facility, they would be in compliance with regulations for proper disposition of unclaimed vehicles. In order to secure the protections guaranteed under law, it is important that the property manager perform their due diligence in the selection of their private property tow company as follows:

- Certification of Liability Insurance, and Certification of Workers Compensation
- Copy of the current CHP Motor Carrier Permit
- Business License
- Tow Permit from Local Police or City Jurisdiction
- "Special Use Permit" for the Tow and Storage Facility.
- Written Agreement for General Authorization Towing from Fire Lanes Areas or Blocking Entrances