

Date October 22, 2007

PUBLIC HEARING ON VEHICLE
IMPOUND OF TONY LEMMO

WHEREAS, Tony Lemmo, 1220 SW Creston Avenue, filed an appeal of his vehicle's impound for illegal parking and the City Hearing Officer denied said appeal; and

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

WHEREAS, Mr. Lemmo has been provided with the opportunity to address the City Council on the matter of his appeal; and

WHEREAS, Mr. Lemmo's vehicle was found parked illegally on a street in a No Parking Zone; NOW THEREFORE,

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

Alternative One: That the order of the hearing officer be upheld.

MOVED BY _____ TO UPHOLD DECISION.

Alternative Two: That the order of the hearing officer be reversed and a Certificate of No Probable Cause be issued to Mr. Lemmo.

MOVED BY _____ TO REVERSE DECISION.

FORM APPROVED:

K. Massier
Katharine Massier
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
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

10/1/07

CITY CLERKS OFFICE,

41

I would like to appeal the finding
of my Admin. Hearing.

Tony Lemmo
1220 S.W. CRESTON
AVE
D.M. 19
50315

FILED

2007 OCT -1 PM 4:04

CITY CLERK
DES MOINES, IOWA

ADMINISTRATIVE HEARING TRANSCRIPT

September 24, 2007
City v. Tony Lemmo
Vehicle Impound

HEARING OFFICER LEANN DUCEY: Good morning. My name is LeAnn Ducey and I'm an Administrative Hearing Officer. It is 8:55 a.m. on September 24, 2007 and we are conducting an administrative hearing on a vehicle impound. The appellant is Tony Lemmo. When I call you, Lemmo, is that correct? When I call you to give testimony today, please come to the podium, speak into the microphone and state your full name and address for the record. You will then be sworn in. This is an informal hearing and to that matter the hearing is now open. Would the representative from the City please come forward, identify yourself and provide any information you have pertaining to this hearing.

SENIOR OFFICER JEFF GOWEN: Senior Officer Jeff Gowen. Address will be 25 East 1st Street, City of Des Moines.

HEARING OFFICER LEANN DUCEY: Please raise your right hand. Do you Senior Officer Jeff Gowen, swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

SENIOR OFFICER JEFF GOWEN: I do.

HEARING OFFICER LEANN DUCEY: Go ahead please.

SENIOR OFFICER JEFF GOWEN: Uh, I was, uh, on routine patrol in the area of Grandview College. Uhm, a vehicle was observed in a no, posted no parking zone in the 900 block of Grandview, uh, Avenue at approximately, uh, the 29th of August a little after 10:00 o'clock, ten after 10:00 to be exact. Uhm, it was a silver 2000 Kia Sephia, 4-door and it was issued a citation and impounded, uh, reference the same charge.

HEARING OFFICER LEANN DUCEY: Okay.

SENIOR OFFICER JEFF GOWEN: Uh, when the complaint came down I saw that the, some pictures had been taken, uh, showing that the, I guess it being claimed that the sign was obstructed. Uh, I went out with the traffic unit yesterday and four photos were taken of the area as well as the sign.

HEARING OFFICER LEANN DUCEY: Okay. Okay. Could I please see that? Thank you.

SENIOR OFFICER JEFF GOWEN: Yep.

HEARING OFFICER LEANN DUCEY: I'll enter these as City Exhibit "A". Okay. Anything else?

SENIOR OFFICER JEFF GOWEN: No.

HEARING OFFICER LEANN DUCEY: Okay. Mr. Lemmo please. Please state your name and address sir.

TONY LEMMO: Tony Lemmo. 1220 S.W. Creston Avenue here in Des Moines.

HEARING OFFICER LEANN DUCEY: Okay. Please raise your right hand. Do you Tony Lemmo, swear or affirm the testimony you are about to give is the truth, the whole truth and nothing but the truth?

TONY LEMMO: I do.

HEARING OFFICER LEANN DUCEY: Go ahead.

TONY LEMMO: Basically everything just self explanatory there in my, the written complaint and the pictures that I took so I just, uh, basically just here to contest why the vehicle was impounded and towed. It's a little difficult for most of those college kids to find a spot over there with all the construction going on and, uh, if you just read my, uh, reason for appeal that would a, hopefully explain to you why I'm here today.

HEARING OFFICER LEANN DUCEY: Uh huh.

TONY LEMMO: And you also should have two pictures that I brought down on the date.

HEARING OFFICER LEANN DUCEY: Uhm, I can see how, what you're saying, uh, in your request for a hearing. You said my daughter was parked in this area because she is attending Grandview College. The sign "no parking here to corner" is partially covered by tree branches and as she exited the car to get books from trunk she did not see this sign and then see attached pictures. Uhm, the, the sign is partially covered. Uh, it depends on where you're looking at it, but you can definitely see the sign pole and you should be, you know, I mean you can see the pole, you might need to, to look a little harder to see what the sign says but I'm pretty familiar with that area. I think that there's a lot of these signs posted all around Grandview, likewise at Drake and, and all these places. Uhm, I don't know if maybe your daughter was kind of in a hurry to get to class or whatever.

TONY LEMMO: Well it's not in a hurry, just that it's very difficult to find a parking spot there with the construction going on on Grandview Avenue.

HEARING OFFICER LEANN DUCEY: Right.

TONY LEMMO: The parking lots....

HEARING OFFICER LEANN DUCEY: But she did park illegally.

TONY LEMMO: That is correct, but she did not see the sign.

HEARING OFFICER LEANN DUCEY: Okay.

TONY LEMMO: And I, that's what she's told me and that's, I believe her.

HEARING OFFICER LEANN DUCEY: Well, I'm not saying that, I'm not saying that she's a liar. I'm saying that, ya know, that part of it at least is visible and maybe if she'd tried a little bit harder she could have seen it.

TONY LEMMO: Well, if you're looking, I'm not sure which pictures you're looking at, whether the Officer's or my pictures, but...

HEARING OFFICER LEANN DUCEY: I'm looking at your pictures right here.

TONY LEMMO: Okay. Uhm.....

HEARING OFFICER LEANN DUCEY: I can see a, I see a pole.

TONY LEMMO: Correct, but that's, that was a pictures taken a couple days later obviously and there was also, there was a car there next to that pole. My daughter was actually farther back than that. So, yeah, if you're, if you see the silver SUV that parked there in the picture, there was also another car behind that and she was even farther back closer to, I think it's probably 9th Street. I'm not that familiar with that area, but I think that's 9th that runs north/south. So if she was heading north and turning on this street here she, uh, she would have been about even with the tree and, and there's no way that she said she seen that sign.

HEARING OFFICER LEANN DUCEY: Okay.

TONY LEMMO: I wouldn't mind paying the fee, but I think having it towed was a little bit out of line.

HEARING OFFICER LEANN DUCEY: Sir, they have to or else everybody else starts parking there too. I mean it, it, it's a law and unfortunately there is not much parking in that area and, uhm, I don't know what to tell you except maybe if she could try to get there a little bit earlier she'd be able to find parking. I don't know. I don't know what the situation is. All I know is that it is posted and it is clear so I am ruling in favor of the City. Should you disagree you have the right to file an appeal with the City Council and in the ruling that I will be send you it states how to do that. Thank you very much.

I, Renae Lampkin, certify that I transcribed the minutes of the September 24, 2007 Administrative Hearing pertaining to the City v. Tony Lemmo regarding a vehicle impound.

Renae Lampkin

October 2, 2007

Tony Lemmo
1220 SW Creston Avenue
Des Moines, IA 50315

Dear Mr. Lemmo:

This letter is to acknowledge receipt of your letter of October 1, 2007 requesting an appeal before the City Council of the Hearing Officer's decision regarding your vehicle impound.

Your hearing has been scheduled for the City Council agenda on **October 22, 2007** in the City Council Chambers, City Hall, 400 Robert D. Ray Drive. **Failure to appear at the scheduled hearing will be deemed as a waiver of your rights to a hearing.** The meeting starts at 4:30 p.m., and your appeal will be considered at 5:00 p.m. I will forward a copy of the Administrative Hearing transcript under separate cover.

If you have any questions regarding this matter, please contact this office.

Sincerely,



Diane Rauh
City Clerk

DR:kh

cc: Hearing Officer
Assistant City Attorney
Chief Bradshaw



DIANE RAUH
CITY CLERK
CITY HALL-2ND FLOOR
400 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309-1821
(515) 281-4209
FAX (515) 281-1845
www.dm.gov.org

PARKING TICKETS
PET LICENSES
BUSINESS LICENSES

ALL-AMERICAN CITY
1949 1978 1981
2005

September 25, 2007

Tony Lemmo
1220 SW Creston Avenue
Des Moines IA 50315

Re: Administrative Hearing – Vehicle Impound

Dear Mr. ~~Car~~^{Lemmo}:

In response to your written appeal, the City of Des Moines convened an Administrative Hearing on September 24, 2007 at 8:45 a.m. regarding a motor vehicle impound (Impound Tag Number 270307). Pursuant to Section 114-485.16 of the Municipal Code, you were given an opportunity to be heard at that time.

The issue before the Hearing Officer was the removal and impoundment of an illegally parked vehicle. Section 114-485.11 of the Municipal Code states, "...[that] 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.

Sr. Officer Gowen said he was on regular patrol when he saw a vehicle parked in a posted "No Parking" zone at approximately 10:10 a.m. Sr. Officer Gowen said he issued a citation and had the vehicle impounded. Sr. Officer Gowen presented City Exhibit A into evidence.

Tony Lemmo, titleholder of the vehicle, said his daughter was driving his car and attending Grandview College. Mr. Lemmo said there was a tree branch partially covering the "No Parking Here To Corner" sign and she told him she exited the car, got her books from out of the trunk and did not see the sign. Mr. Lemmo attached two pictures with his Request for Administrative Hearing." (Appellant Exhibit 1)

I find probable cause was proven for the impound. You have the right to appeal the ruling to the City Council by filing an appeal with the City Clerk's Office within seven (7) days of receipt of the ruling. Your appeal must include the reason upon which you are basing your appeal. You are also responsible for payment of ticket #7033480.



DIANE RAUH
CITY CLERK
CITY HALL 2ND FLOOR
400 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309-1881
(515) 283-4200
FAX (515) 237-1645
www.dmgov.org

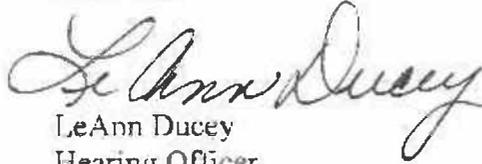
PARKING TICKETS
PET LICENSES
BUSINESS LICENSES

ALL-AMERICAN CITY
1949, 1976, 1983
2003

Tony Lemmo
September 25, 2007
Page Two

If you have questions regarding an appeal, please call the City Clerk's Office at
283-4209.

Sincerely,



LeAnn Ducey
Hearing Officer

Enclosures

Cc: Diane Rauh, City Clerk
Police Chief Bradshaw
Linda Main, City Clerk's Office



DIANE RAUH
CITY CLERK
CITY HALL-2ND FLOOR
400 ROBERT D. RAY DRIVE
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(515) 283-4209
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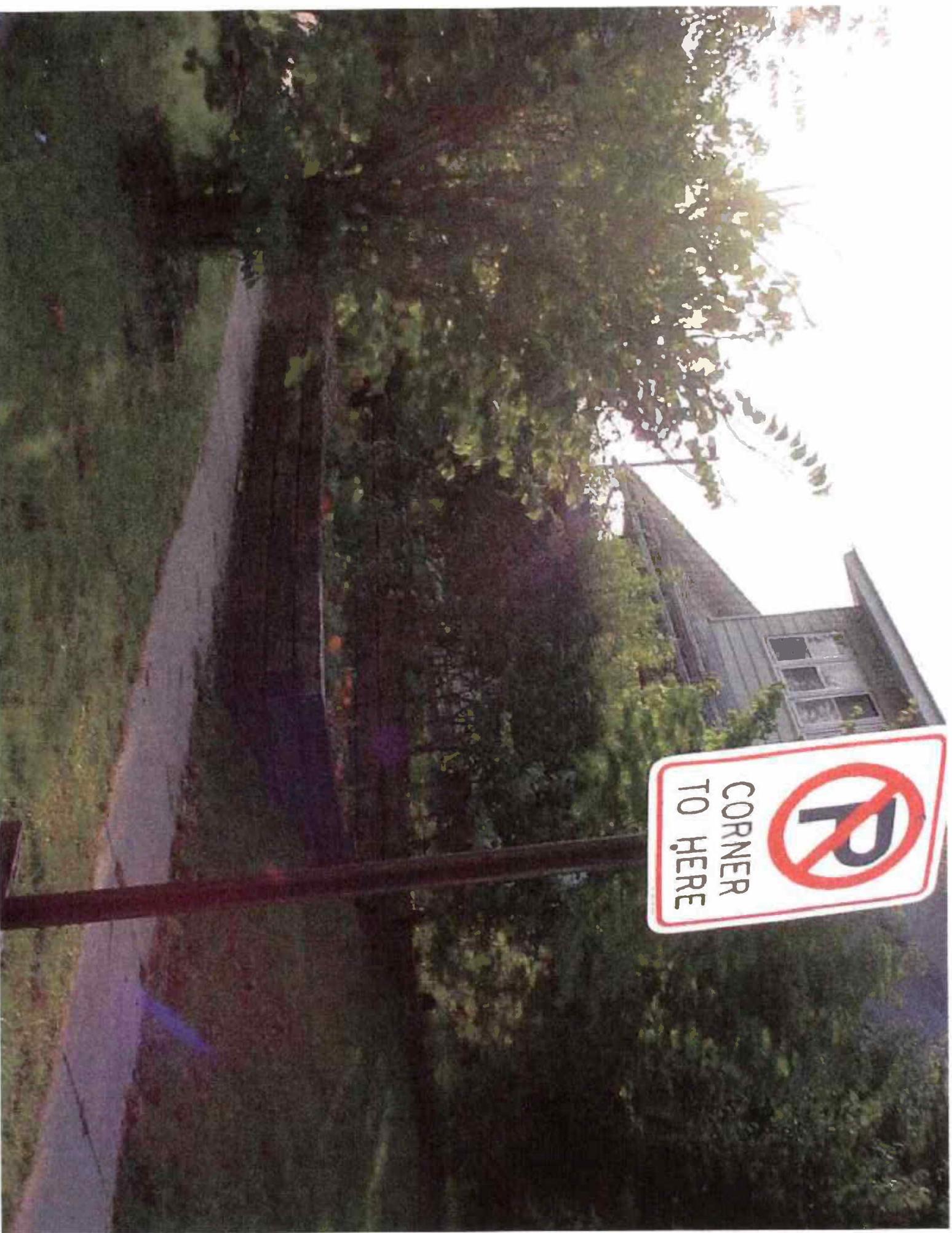
PARKING TICKETS
PET LICENSES
BUSINESS LICENSES

ALL-AMERICAN CITY
1549 1876, 1981
2203

41

City
EXHIBIT
A

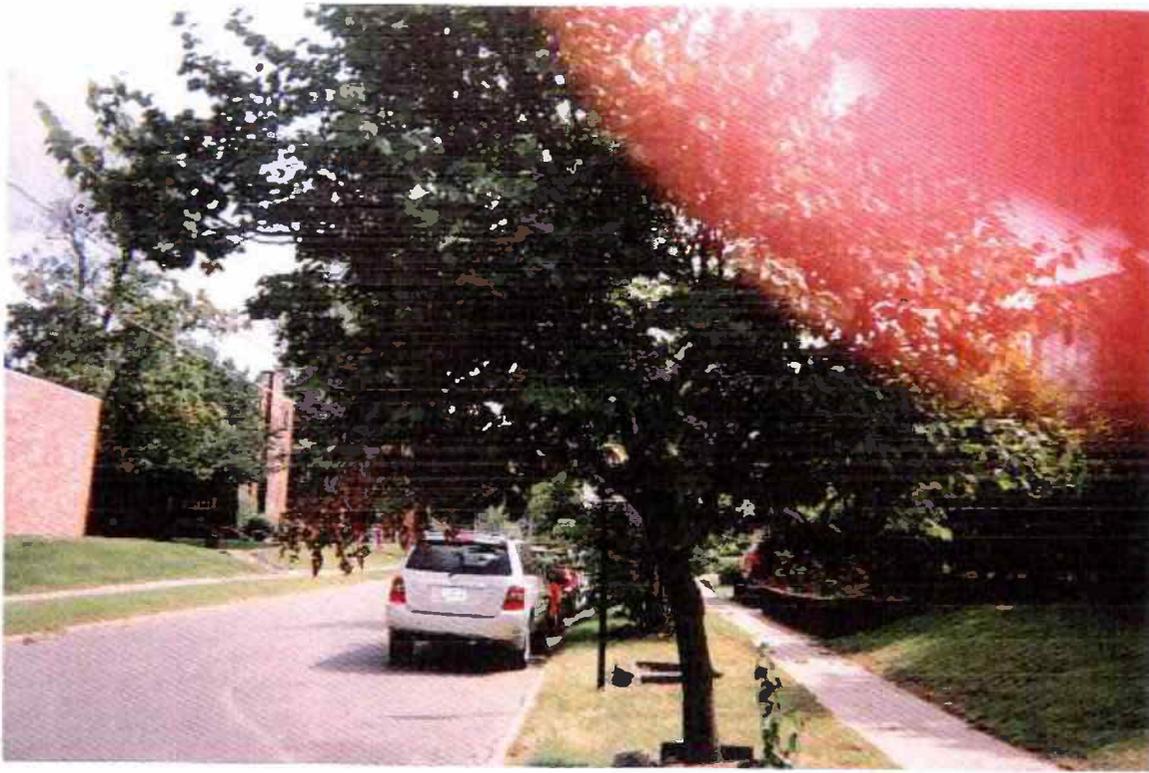




 CORNER
TO HERE







September 13, 2007

Tony Lemmo
1220 SW Creston Avenue
Des Moines, IA 50315

Re: Administrative Hearing-Vehicle Impound

The City of Des Moines has received timely notice of your request for an administrative hearing. Accordingly, a hearing has been set for **Monday, September 24, 2007**, in the City Council Chambers, south end of the second floor, **City Hall, 400 Robert D. Ray Drive**, at **8:45 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.

If you have questions in this regard, please call.

Sincerely,

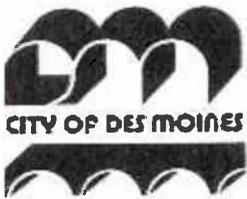


Diane Rauh
City Clerk

DR/kh

Enclosure

cc: Hearing Officer
Legal
Assistant City Attorney
Staff Notification
File



DIANE RAUH
CITY CLERK
CITY HALL 2ND FLOOR
400 ROBERT D. RAY DRIVE
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(515) 283-4209
FAX (515) 287-1548
www.dmgov.org

PARKING TICKETS
PET LICENSES
BUSINESS LICENSES

ALL-AMERICAN CITY
1848, 1876, 1981,
2002

CITY OF DES MOINES

Office of City Clerk

To: Officer Baker
Police Traffic

Date: September 14, 2007

From: City Clerk's Office

RE: Vehicle Impound

Tony Lemmo, Des Moines, IA has requested an impound hearing which has been scheduled for **Monday, September 24, 2007** in the Council Chambers, second floor of City Hall, 400 Robert D. Ray Drive at **8:45 A.M.**

Please inform **ID NO. 4807 (J. Gowen)** of the time, date and location of the hearings. 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

2007 AUG 29 PM 4:07

VEHICLE IMPOUND / RECOVERY REPORT		IOWA POLICE DEPARTMENT	
16. BEAT 224		17. PROPERTY SHEET N/A	
18. METHOD OF THEFT N/A		19. KEYS LEFT? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
20. RESULTING DAMAGE ON STRIPPING BROKEN LEFT MIRROR		21. GENERAL CONDITION POOR	
22. ARRESTS OR OFFENSES NO PARKING		23. LICENSE NO. STATE / YEAR 967-REB D08 IOWA / 00	
24. IDENT NOTIFIED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		25. CO NOTIFIED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
26. VEHICLE		27. NARRATIVE	
28. CRIME OR OFFENSE ILL PARKING		29. CLASSIFICATION	
29. REPORTING OFFICER GOWEN		30. DISPATCH	
31. INVESTIGATION STATUS <input type="checkbox"/> OPEN <input type="checkbox"/> SUSPENSIC <input type="checkbox"/> CLOSED		32. RADIO BROADCAST BY DISPATCHER 2	
33. CLEARANCE CLASSIFICATION <input type="checkbox"/> UNINDENTED <input type="checkbox"/> CLEARED BY ARREST <input type="checkbox"/> RECEIPT CLEARED		34. UNIT REFERRED TO CF	

70-1283 (Rev. April 1988)

City of Des Moines
Request for Administrative Hearing
(File in the City Clerk's Office within 10 days of the vehicle impoundment)

Please print or type

I hereby request an administrative hearing pursuant to Chapter 27-485.15 of the Municipal Code of the City of Des Moines. This hearing process applies only to vehicles which have been impounded for illegal parking.

My vehicle was impounded on 8/29/07, case number and/or tag number 07-33730
→ 270307

Reason for appeal: _____
My daughter was parked in this area
because she is attending Grandview College
The sign "NO PARKING HERE to CORNER" is
partially covered by tree branches and as
she exited car to get books from
trunk she did not see the sign SEE
ATTACHED PICTURES.

I understand that my failure to attend my scheduled hearing will be deemed a waiver of my rights to such a hearing.

9/6/07
Date
515-282-4951
Daytime Telephone

Tony Lemmo
Signature
Tony Lemmo
Print Name
1220 S.W. CRESTON AVE
Address
DES MOINES IA 50315
City/State/ZIP

Attach to this form a copy of the Customer's Invoice for the towing charge. You may also provide copies of maps, drawings, or photographs which support your case.

Caution: Any statement made on this form may constitute an admission on your part.

41

**CITY OF DES MOINES
DEPARTMENT OF POLICE
ADMINISTRATIVE SERVICES DIVISION**

RECEIPT NO. 135858

DATE 8/29/2007 TIME 04:30:18 PM

RECEIVED FROM LEMMO, ANTHONY

CASH
CHECK
CREDIT

9307

DOLLARS \$ 20.00

**RECEIPT FOR A
COPY OF:**

- _____ POLICE CASE REPORT; (\$5.00 ea.)
- _____ LOSS VERIFICATION REPORT; (\$5.00 ea.)
- _____ ARREST RECORD; (\$5.00 ea.)
- _____ ACCIDENT REPORT; (\$5.00 ea.)
- _____ PHOTO'S on CD; (\$15.00 ea.)
- _____ BLANK VIDEO TAPE/CD FOR REQUESTED RECORDING; (\$5.00 ea.)
- _____ TRIP LOG; (\$5.00 ea.)
- _____ DISPATCH TAPE RECORDING; (\$15.00 ea.)
- _____ JAIL VIDEO RECORDING; (\$15.00 ea.)
- _____ IN-CAR VIDEO RECORDING; (\$15.00 ea.)
- 1 _____ IMPOUND FEE; (\$20.00 ea.)
- _____ FINGERPRINT FEE; (\$10.00 per card)
- _____ BOND PROCESSING FEE; (\$10.00 ea.)
- _____ MISCELLANEOUS; (\$5.00)

CROW AUTOMOTIVE SERVICE
208 3RD ST SW
ALTOONA IA 500050000

TERMINAL I.D.: 009086324
MERCHANT N: 267824611898

NO
XXXXXXXXXXXXXXXX8709
SALE
BATCH: 000792
DATE: AUG 29, 07
SQ: 984
SALES: 000554
TIME: 17:55
AUTH ID: 023090

CASE #07-33730 TAG 270307

TOTAL \$106.00

CUSTOMER COPY

BY: Cheryl Phalen

U140

Ident No

CITATION INFORMATION

Printed By: Ismain

Print Date: 09/07/2007

Citation Information

Number: 7033480	Issue Date: 08/29/2007	Issue Time: 10:10	
Decal: 	Type: 	Agency Code: 	
Officer ID: 4807	Officer Name: GOWEN, JEFFREY		
ID: 	Meter: 	Chalk Time: 	Route:
Mark Block: 	Street: 	Suffix: 	Direction:
Mark Block: 	Street: 300 GRANDVIEW AVE	Suffix: 	Direction:
Comment 1: TAG 270307	Amount Due: \$30.00		
Comment 2: CASE 33730	Date Entered: 08/30/2007		
Comment 3: 	Comment 4: 		

User Defined Flag

Violation

41 - NO PARKING ANYTIME

User Defined

DOT VIN:	<input type="text"/>
Aux2:	<input type="text"/>
Aux3:	<input type="text"/>
Aux4:	<input type="text"/>
Aux5:	<input type="text"/>

Vehicle Information

License Plate: 967REB	State: IA	Type: 	Lic. Year: 608	Major Color: SIL	Minor Color:
Body Style: 4D	Model Year: 	VIN: 	Make: KIA	Model: 	

Finance Activity

Code	Debit	Paid	Action Date	Paid Type	Receipt#	Void
41	\$30.00		08/29/2007			

Status Activity

Active	Date	Code	Description

Related People

Name	TitleStart	TitleEnd
Lemmo, Anthony Andrew,		