

.....
 May 23, 2011

Date

**PUBLIC HEARING ON VEHICLE
 IMPOUND OF CURTIS KALLESEN**

WHEREAS, Curtis Kallesen, 2108 – 63rd Street, Windsor Heights, filed an appeal of his vehicle's impound for illegal parking over 24 hours and the Des Moines Hearing Officer denied said appeal; and

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

WHEREAS, Mr. Kallesen has been provided with the opportunity to address the City Council on the matter of his appeal; 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. Kallesen.
 MOVED BY _____ TO REVERSE DECISION

FORM APPROVED:

K. Massier
 Katharine Massier
 Assistant City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|------|------|----------|--------|
| COWNIE | | | | |
| COLEMAN | | | | |
| GRIESS | | | | |
| HENSLEY | | | | |
| MAHAFFEY | | | | |
| MEYER | | | | |
| MOORE | | | | |
| 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

EXHIBITS FOR VEHICLE IMPOUND

**Curtis Kallesen
2108 63rd Street
Windsor Heights, IA 50324**

- | | |
|-------------------------|--|
| <u>EXHIBIT 1</u> | Request for Administrative Hearing Letter Setting Date of Hearing |
| <u>EXHIBIT 2</u> | Hearing Officer's Decision |
| <u>EXHIBIT 3</u> | Amended Ruling |
| <u>EXHIBIT 4</u> | Appeal of Hearing Officer's Decision |
| <u>EXHIBIT 5</u> | Transcript |
| <u>EXHIBIT 6</u> | Police Report and Citation |

EXHIBIT 1



Parking Ticket Appeal Form

(File in the Des Moines City Clerk's Office within seven business days after the issue date of the ticket)

If you do not receive a response within 30 days, please contact the City Clerk's Office at 515-283-4125

This is an administrative review process. Please complete this form if you believe the parking ticket received by you is unwarranted because the facts alleged on the ticket fail to show an ordinance was violated or the parking meter was inoperable and you reported it within 24 hours after issue of the ticket. An administrative review panel will consider the matter and make a determination on the merits of your case. **Be complete and include any documentation and/or diagrams, as this is the only evidence that will be considered by the review panel.** A copy of the panel's decision will be mailed to you.

Questions? Contact the City Clerk's Office at 515-283-4125

Please print or type

NAME

Curt Kallisen

ADDRESS

2108 63rd ST

CITY, ST, ZIP

Windsor Heights, IA, 50324

Daytime Phone Number

515-314-4646

Alternate Daytime Phone Number

Drivers License Number

134AC8477

Ticket Number

7090589 or 2011-7556 or 293785

Date Ticket Issued

March 15 2011

License Plate Number

078 WRG

Vehicle Description (make, model, color)

NISSAN Maxima red

Violation Type (Check One)

Overtime

Illegal

Handicapped (State Issued Permit # if applicable) _____

2011 MAR 18 AM 8:28
CITY CLERK
DES MOINES, IA
FILED



REASON FOR APPEAL:

Please attach any diagrams or photographs you would like to be considered.

I drive this car every day, and i drive my co-worker to work with this car Monday through Friday but I get a ticket for being parked for over 24 hours? Don't DM. Police even put a orange sticker on the window as a warning? The motor was still warn when it was towed.

Caution, any statement made on this form may constitute an admission on your part.

Submit form to City Clerk's Office, 400 Robert D. Ray Drive, Des Moines, IA 50309, or Fax to 515-237-1645.

Signature Curt Kall

Today's Date 3-17-2011

If you receive a "not voided" decision, the matter may be appealed to the Polk County Associate District Court for judicial determination. If you request judicial determination, you must appear at the City Clerk's Office within seven business days of the date of the response, You must sign a promise to appear.



March 25, 2011

Curt Kallesen
2108 63rd Street
Windsor Heights, IA 50324

Re: Administrative Hearing-Vehicle Impound

An administrative hearing has been set for **Monday, April 4, 2011** in the City Council Chambers, south end of the second floor, **City Hall, 400 Robert D. Ray Drive**, at **9:15 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,

A handwritten signature in black ink that reads "Diane Rauh". The signature is written in a cursive, flowing style.

Diane Rauh

City Clerk

DR/kh

Enclosure

cc: Hearing Officer
Staff Notification

EXHIBIT 2



April 8, 2011

Curt Kallesen
2108 63rd Street
Windsor Heights, IA 50324

Subject: Vehicle Impound

Attached is the ruling from the City of Des Moines Hearing Officer, for the Administrative Hearing on April 4, 2011. Please read it carefully, so you are aware of the decision, any deadlines you might be required to comply with, as well as any other requirements you may be held to.

Please provide my office with a copy of your receipts for reimbursement.

Sincerely,

A handwritten signature in black ink, appearing to read "Diane Rauh". The signature is fluid and cursive, with a large initial "D" and "R".

Diane Rauh
City Clerk

DR:kh
Attach

**City of Des Moines, Iowa
April 4, 2011 Administrative Hearing**

| | | |
|----------------------|---|-------------------------|
| In re: |) | |
| |) | |
| |) | |
| |) | DECISION AND ORDER |
| CURTIS LEE KALLESEN, |) | AND |
| Appellant |) | NOTICE OF APPEAL RIGHTS |
| |) | |
| |) | |

Curtis Lee Kallesen appeared in his own behalf as the title holder of record of a 1993 red Nissan Maxima (Iowa 2010 license no. 078WRG). Officer Theodore Stroope, with the Des Moines Police Department, appeared on behalf of the City of Des Moines (the "City").

Procedural History

At approximately 12:35 AM on Tuesday, March 15, 2011 Officer Stroope issued a citation (No. 7090589) and ordered the impound of a 1993 red Nissan Maxima (Iowa 2010 license no. 078WRG) parked along the street in front of 1448 48th Street for parking OVER 24 HOURS. On March 15, 2011, G & S Towing towed the vehicle to impound. On March 15, 2011 Mr. Kallesen obtained his 1993 red Nissan Maxima from impound. On March 18, 2011, Mr. Kallesen filed a request with the City Clerk's Office for an administrative hearing to determine whether there was probable cause for the vehicle and its contents to be impounded. On March 25, 2011, the City Clerk sent a letter to Mr. Kallesen informing him that the administrative hearing was scheduled for 9:15 AM on April 4, 2011. The matter was so heard before the Administrative Hearing Officer.

Discussion

The issue is whether there was probable cause for a finding of a Section 114-361.13 violation under the City of Des Moines Municipal Code (the "Municipal Code") to justify Mr. Kallesen's 1993 red Nissan Maxima being impounded on March 15, 2011. Section 114-361.13 of the Municipal Code provides:

"No person shall park any vehicle and permit it to remain standing upon any public street or public metered lot in the city continuously and in one place for a period of more than 24 hours. A person who violates any provision of this section shall pay a fine of \$15.00."

Officer Stroope testified that he had observed the vehicle in question parked in the same location and in the same manner for several months; noting the vehicle was parked at an angle with the front passenger tire up on the curb. Officer Stroope testified that the stretch of 48th Street between Franklin Avenue and University Avenue is a main thoroughfare that he drives frequently during his shifts. Officer Stroope testified that he had chalked the curb behind the rear tire and observed that the vehicle was still placed in close proximity of that mark. Officer Stroope further testified that he believed the vehicle had been abandoned because of the bags and boxes in the back seat and because when he ran the plates the address of its owner was listed with a Windsor Heights address as opposed to an address in the 48th Street neighborhood. Officer Stroope testified that he did not "red tag" the vehicle because he was out of stickers; noting that it is at the officer's discretion as to whether or not they are

used. Officer Stroope further testified that because he believed that the vehicle had not been moved for weeks that a 24-hour "red tag" notice was not warranted.

Mr. Kallesen testified that he drives the 1993 red Nissan Maxima daily. Mr. Kallesen testified that another person rode with him while running business errands all day on March 14, 2011. Mr. Kallesen testified that on March 5, 2011 he moved in with a friend in the 48th Street neighborhood; noting that the property has a small single lane driveway so he always parks in the street. Mr. Kallesen testified that he always parks in the same spot because it was the only location that is not under a tree where otherwise bird droppings are a problem. Mr. Kallesen testified that he parks at a slight angle because it is a frequent occurrence for vehicles parked along the street to have their side rear view mirrors clipped off by passing vehicles; noting it is a very busy street. Mr. Kallesen testified that he tries to pull as close to the curb as he can with the right front tire in order to protect the driver's side rear view mirror; acknowledging that sometimes the tire may end up on top of the curb, given it is low old curbing, but noting that he readjusts it if the tire is on the grass at all. Mr. Kallesen further testified that after receiving the citation in question he called the Police Department and had an Officer come out to inform him what he was doing wrong with the way he was parking; noting that the angle the car was parked placed the front of the vehicle in no more than the width of the side rear view mirror closer to the curb than the rear of the vehicle. Mr. Kallesen testified that the Officer told him there is nothing wrong with the way he parks.

Lance Thompson testified that he rode with Mr. Kallesen in his 1993 red Nissan Maxima on March 14, 2011. Mr. Thompson testified that they ran business errands all day in the car until approximately 5:00 PM.

Officer Stroope contended the vehicle had been parked in 48th Street location for months and that it had not been moved for weeks, while Mr. Kallesen provided compelling and corroborated testimony regarding the vehicle only being parked in the location along 48th Street for 7-1/2 hours before it was impounded at 12:30 in the morning on March 15, 2011, and that he had only recently moved into the neighborhood. Officer Stroope also contended that the vehicle was assumed abandoned because the title holders address was listed as Windsor Heights versus the 48th Street neighborhood. However, this is a weak argument given the transient nature of today's population. Furthermore, had Officer Stroope chalked the tires of the vehicle instead of the curb he may have been able to accurately identify that the vehicle was being used. In addition, Mr. Kallesen provided compelling testimony regarding reasonable and normal circumstances behind why a person would park in the location and manner that he did.

Decision and Order

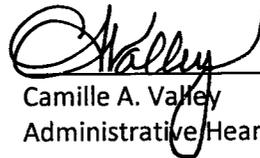
Therefore, it is held by a preponderance of all evidence in the record that the impoundment of Mr. Kallesen's 1993 red Nissan by the Des Moines Police Department under Section 114-361.13 of the Municipal Code was unjustified. Therefore Mr. Kallesen is found not liable for the charges, costs and fees attributable to the impound and storage of his vehicle. Therefore, any amounts previously paid by Mr. Kallesen shall be refunded to him. Furthermore, Citation No. 7090589 and its related fifteen dollar (\$15) fine shall be voided in the record.

Right of Appeal

As provided under Section 114-485.18 of the Municipal Code, this decision may be appealed to the City Council by either the department causing the vehicle to be impounded or the registered owner or person having legal entitlement to possession of the impounded vehicle, provided a written notice of

appeal is filed with the City Clerk's Office within seven days of this decision. Failure to file a written notice of appeal within such period shall be deemed a waiver of the right to appeal this decision to the City Council.

This written ruling is hereby submitted on this 8th day of April, 2011 in Des Moines, Polk County, Iowa. The City Clerk shall serve copies of this Decision and Order upon each of the parties.



Camille A. Valley
Administrative Hearing Officer

EXHIBIT 3



April 26, 2011

Curtis Lee Kallesen
2108 63rd Street
Windsor Heights, IA 50324

Subject: Vehicle Impound

Attached is an **amended** ruling from the City of Des Moines Administrative Hearing Officer, for the Administrative Hearing held on April 4, 2011. Please note that the Administrative Hearing Officer has ruled that the officer did have probable cause to impound the vehicle and no refund will be granted.

Read it carefully, so you are aware of the decision, any deadlines you might be required to comply with, as well as any other requirements you may be held to.

Sincerely,

Diane Rauh
City Clerk

DR:kh
Attach



City of Des Moines, Iowa
April 4, 2011 Administrative Hearing

| | | |
|----------------------|---|------------------------|
| |) | |
| In re: |) | |
| |) | |
| |) | |
| CURTIS LEE KALLESEN, |) | AN ORDER NUNC PRO TUNC |
| Appellant |) | |
| |) | |
| |) | |

On my own motion, the written ruling issued on the 8th day of April, 2011 is hereby amended by striking the last paragraph of the Discussion section and everything thereafter and replacing it with the following language and ruling:

While Mr. Kallesen provided explanations during his testimony that could lead one to find that his vehicle was not parked for over 24-hours along 48th Street, there is only one issue that may be considered during the administrative hearing. Section 114-485.16 of the Municipal Code provides:

“The sole issue before the hearing officer shall be whether there was probable cause to impound the vehicle and personal property contained within the vehicle in question.”

According to Black’s Law Dictionary, “probable cause” exists when “[a] set of probabilities grounded in the factual and practical considerations which govern the decisions of reasonable and prudent persons and is more than mere suspicion . . .” Therefore, the task at hand is not to deliberate on practical considerations presented after the fact, but whether Officer Stroope had probable cause at the time when he ordered Mr. Kallesen’s vehicle and its contents to be impounded.

The record reflects that there is no dispute regarding the vehicle in question being parked in the same vicinity and in a unique manner that positioned the right front tire touching the curb with the left rear fender sticking out further than the front left fender towards the traveled portion of the roadway. The unique manner in which the vehicle was parked would also most likely ensure that any regular passerby, like Officer Stroope, would take notice of it while traversing the major thoroughfare. The record also reflects that Officer Stroope had chalked the curb behind the rear tire to ascertain whether the vehicle was being moved. Officer Stroope testified that it appeared thereafter that the vehicle had remained in the same spot. Chalking the tire itself might have been a more effective means for making such a determination in the case at hand, but Officer Stroope had no way of knowing just how persnickety Mr. Kallesen was in parking his vehicle and the precision deployed to ensure the vehicle was carefully positioned in the same spot so that it would not be subjected to bird droppings from the trees growing along the parking in the area. Furthermore, the record reflects that Officer Stroope reasoned that the use of a “red tag” was not warranted because the vehicle appeared abandoned given it was observed in the same location for a month, the character of the contents in the back seat, and the fact that the address of the title holder of record was not located in the vicinity. While Mr. Kallesen testified that he had only moved in with a friend in the area 3-weeks prior to the impoundment, it is also likely that Mr. Kallesen visited this friend on a frequent basis prior to moving in with him/her. Mr. Kallesen also argued that the Officer would have known that the vehicle had been driven shortly before it was

impounded had he just touched the hood of the car, as the engine was probably still warm. However, it is not unusual for vehicle engines to cool down very quickly given night time temperatures during the month of March. The record also reflects that Officer Stroope only impounded the vehicle after being unable to locate the owner of the vehicle in an attempt to get it moved. Therefore, it is found that Officer Stroope's decision to impound Mr. Kallesen's vehicle was based on probabilities grounded in the factual and practical considerations and not based on mere suspicion.

Decision and Order

By a preponderance of all evidence in the record, the City's action is upheld as it is found that Officer Stroope had probable cause when Mr. Kallesen's 1993 red Nissan was impounded. Therefore, as provided under Section 114-485.16 of the Municipal Code, Mr. Kallesen is held liable and ordered to pay all charges, costs and fees attributable to the impound and storage of his vehicle; including the fifteen dollar (\$15) fine associated with the citation issued in this case(Citation No. 7090589).

Right of Appeal

As provided under Section 114-485.18 of the Municipal Code, this decision may be appealed to the City Council by either the department causing the vehicle to be impounded or the registered owner or person having legal entitlement to possession of the impounded vehicle, provided a written notice of appeal is filed with the City Clerk's Office within seven days of this decision. Failure to file a written notice of appeal within such period shall be deemed a waiver of the right to appeal this decision to the City Council.

This written ruling is hereby submitted on this 26th day of April, 2011 in Des Moines, Polk County, Iowa. The City Clerk shall serve copies of this Decision and Order upon each of the parties.



Camille A. Valley
Administrative Hearing Officer

EXHIBIT 4

I Curtis Lee Kallisen

Appeal this decision of the City Council
causing my vehicle to be impounded.

I appeal this decision on this day May 3
2011,

This is the impound involving Officer Stroope
Camille A. Valley, Diane Rauh, citation
issued in this case (citation No. 7090589)

Subject: Vehicle Impound

FILED
2011 MAY -3 AM 8:42
CITY CLERK
DES MOINES, IA

Sincerely,
Curt Kallisen
Curt Kallisen
owner of vehicle

Curtis Lee Kallisen
2108 63rd Street
Windsor Heights, IA 50324

276-2649 (leave a message)

4

INVOICE

G & S Service, Inc/City Wide Towing

4100 E 16th Street
Des Moines, IA 50313
(515) 276-8068 Fax (515) 276-9258

Invoice # 13453

| | | |
|---------------------------------------|-------------------------------|--|
| Date In: 3/15/2011 12:36:54 AM | PO #: 11-7556 | Invoice Date: 3/15/2011 |
| Date Out: 3/15/2011 | Released by: | Tow Tag # |
| Customer Information: | Vehicle Information: | Tow Information: |
| Released to: | Year: 1993 | Location: 1504 48th Des Moines |
| | Make: Nissan | Cross Street: |
| | Model: Maxima | Dispatched: 3/15/2011 12:47:27 AM |
| | Color: Maroon | Arrived: 3/15/2011 1:02:45 AM |
| Bill to: | Lic #: 078 WRG | Completed: 3/15/2011 |
| | VIN: JN1HJ01F2PT133857 | Truck Type: Flatbed |
| | Odometer: | Agency: |
| | Owner: | |

| Qty | Description | Price | Extended Price |
|-------------------------|----------------------|--------------|----------------|
| 1 | Storage Day(s) | \$3.00 | \$3.00 |
| 1 | DMPD IMPOUND FLATBED | \$50.00 | \$50.00 |
| Sales Tax \$3.18 | | Total | \$56.18 |

Certification: I the undersigned do hereby certify that I am legally authorized and entitled to take possession of the above described vehicle

Signature _____ Date _____

PATROL SERVICES BUREAU



Des Moines Police Department
25 East First Street
Des Moines, Iowa 50309

Officer: _____

Case No. 283-4899
Additional information on reverse side

CITY OF DES MOINES
Police Department

8:05AM
00-0002 001
#01372

Mar 15/11
Martha
CLERK

Inpound Fee

\$20.00

*TTL

\$20.00

CASH

\$20.00

----- Thank You -----



May 4, 2011

Curtis L. Kallesen
2108 63rd Street
Windsor Heights, IA 50324

Re: Administrative Hearing -Vehicle Impound

This letter is to acknowledge receipt of your written request of May 3, 2011 requesting an appeal before the City Council regarding the Hearing Officer's decision in reference to your vehicle impound.

Accordingly, I have set this matter for hearing on May 23, 2011 at 4:30 p.m. in the City Council Chambers, City Hall, 400 Robert D. Ray Drive. A copy of the portion of the City Code pertaining to the appeal process is enclosed for your information. Failure to appear at the scheduled hearing will be deemed as a waiver of your rights to a hearing.

A copy of the transcript will be sent under separate cover. If you have any questions regarding this matter, please contact this office.

Sincerely,

A handwritten signature in black ink that reads "Diane Rauh". The signature is written in a cursive, flowing style.

Diane Rauh
City Clerk

DR:kh

cc: Assistant City Attorney
Chief Bradshaw

EXHIBIT 5



May 10, 2011

Curtis Kallesen
2108 63rd Street
Windsor Heights, IA 50324

Re: Administrative Hearing –Vehicle Impound

As stated in my May 4, 2011 letter, enclosed is a copy of the transcript from the April 4, 2011 administrative hearing regarding impoundment of your vehicle.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Diane Rauh".

Diane Rauh
City Clerk

DR:kh
Enc.

cc: Assistant City Attorney
Chief Bradshaw



ADMINISTRATIVE HEARING TRANSCRIPT

April 4, 2011

City v. Kallesen
Vehicle Impound

HEARING OFFICER CAMILLE VALLEY: Good morning. It is approximately 9:10 a.m. on Monday, April 4, 2011 and my name is Camille Valley and I'm the Administrative Hearing Officer. We're conducting this hearing this morning at the request of Curt Kallesen regarding the City's impound of a vehicle. Would the City representative please come to the microphone and clearly state your name and the title of your position with the City of Des Moines. Please bend the microphone forward so.

POLICE OFFICER THEODORE STROOPE: Theodore Stroope.

HEARING OFFICER CAMILLE VALLEY: Okay. If you could speak up because I've got a head cold and...

POLICE OFFICER THEODORE STROOPE: Sorry. Theodore Stroope. Police Officer with the City of Des Moines.

HEARING OFFICER CAMILLE VALLEY: Theodore....

POLICE OFFICER THEODORE STROOPE: Stroope. "Stroope."

HEARING OFFICER CAMILLE VALLEY: "Stroope." Okay. Thank you. Would you please raise your right hand. Do you solemnly swear or affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

POLICE OFFICER THEODORE STROOPE: Yes.

HEARING OFFICER CAMILLE VALLEY: Okay. You may proceed and share with me the facts and circumstances of this case.

POLICE OFFICER THEODORE STROOPE: My normal patrol district is the west side of Des Moines and 48th Street between University and Franklin.

HEARING OFFICER CAMILLE VALLEY: If you could speak up just a little bit. You can bend that microphone forward if you want to.

POLICE OFFICER THEODORE STROOPE: I'll just lean into it. Forty-eighth Street between University and actually Urbandale, from University to Franklin is the section we are dealing with. This is a pretty main thoroughfare for us on the west side going between trips on the northwest side and the southwest area of the district. We drive it quite frequently. For a couple of months I've noticed this particular vehicle has been parked the same way. Probably a couple of months by my recollection.

HEARING OFFICER CAMILLE VALLEY: By saying it's parked the same way what do you mean?

POLICE OFFICER THEODORE STROOPE: I'm getting to that.

HEARING OFFICER CAMILLE VALLEY: Okay.

POLICE OFFICER THEODORE STROOPE: It is always parked at an angle with the passenger's side of the front wheel up over the curb and 48th Street from University up to Hickman is three lanes wide. There are two travel lanes and then there is a parking lane and normally two cars can pass unless they are large vehicles while one car is parked. And the way this particular car was parked consistently, it was, where that car was you couldn't have two people go by. The person on the west side of street had to wait because of the angle the car was parked at. And I also noticed it was parked in the same place all the time so I figured it had been abandoned. Having other things to do I just kinda kept my mind on it until one night I had a slow night. I went and checked on it. I ran the plate. The plate came back to an address in Windsor Heights. I marked the tire that was up over the curb and left. I came back the next shift, a couple of hours after the end of the shift and the mark that I left on the curb, the tire was on the same exact spot on the mark that I had left on the curb. I hadn't red tagged it because my car didn't have any red tags and I figured the plate came back from Windsor Heights so I figured it had been abandoned there by somebody that lived in Windsor Heights and they weren't going to see the red tag anyway. I noticed the three parking violations I stated earlier. Parking on the parking because it was parked up over the curb. Angle parking not allowed at the angle it was at and the 24-hour violation. I only wrote the ticket for the 24-hour violation and that's what the impound reflects.

HEARING OFFICER CAMILLE VALLEY: But you did note the other offenses had occurred?

POLICE OFFICER THEODORE STROOPE: Yes.

HEARING OFFICER CAMILLE VALLEY: Okay. And you said parked up over the curb. Curbs are different heights. How high is the curb in this particular case?

POLICE OFFICER THEODORE STROOPE: I think they had curb replacement on that block pretty recently so I think it is currently 8 inches, something like that. It is a normal curb. It is not a low curb at all.

HEARING OFFICER CAMILLE VALLEY: So what section of the Code did you actually cite him under then?

POLICE OFFICER THEODORE STROOPE: The 24-hour violation.

HEARING OFFICER CAMILLE VALLEY: And if you did issue the red tag, if you did have red tags would you have put a red tag on it typically? Is that the standard?

POLICE OFFICER THEODORE STROOPE: If I have one, yes. But like I said, I didn't and it didn't concern me that I didn't because I didn't think that it was somebody that lived around there. And if, if a car is parked in front of a house that, you know, the neighbors call and complain about a 24-hour violation I'll put a tag on it because I know

they are going to come out of their house and see the tag and think oh I should move the car. But this car came back to an address in Windsor Heights so I figured the way it was parked it looked like somebody parked it when they were drunk and parked it up over the curb one night and forgot where their car was and left it there for a couple of weeks.

HEARING OFFICER CAMILLE VALLEY: Is the use of red tags at the discretion of the officer whether or not they are given?

POLICE OFFICER THEODORE STROOPE: Yes. It is something we do so we don't have to write a ticket. I don't believe that the ordinance states that it has to be...

HEARING OFFICER CAMILLE VALLEY: You don't have to issue one, you, that's just your discretion if you decide to give one or not.

POLICE OFFICER THEODORE STROOPE: Yes.

HEARING OFFICER CAMILLE VALLEY: So you don't always use them?

POLICE OFFICER THEODORE STROOPE: No. I mean there are times when you go find a 24-hour violation where there are other obvious indicators like in the fall if it has leaves all over it or if there is debris from storm water around the tires. In the winter time if it has been plowed around and you knew the last time it was plowed was...

HEARING OFFICER CAMILLE VALLEY: So then you wouldn't leave a red tag on those?

POLICE OFFICER THEODORE STROOPE: No. You don't need to because you know that it's been there for 24 hours.

HEARING OFFICER CAMILLE VALLEY: Because there is enough evidence that it's been there. So the purpose of the red tag is more if you are questioning....there is not enough evidence.

POLICE OFFICER THEODORE STROOPE: The red tag gives a second chance and the red tag has a tab for us to write the officer time and date and that way the red tag also allows other officers to impound the vehicle for 24 hours without you having to be present if another officer can see, oh, Officer Stroope red-tagged this two days ago so I can impound it under....I know it's been here 24 hours because Officer Stroope red-tagged it.

HEARING OFFICER CAMILLE VALLEY: Okay.

POLICE OFFICER THEODORE STROOPE: It's also kinda something for us to leave for other cops. In this case I left my mark and I knew what my mark was so, and I did it the next shift for myself.

HEARING OFFICER CAMILLE VALLEY: Okay. Thank you for that clarification. Anything else you would like to add?

POLICE OFFICER THEODORE STROOPE: Nothing.

HEARING OFFICER CAMILLE VALLEY: Okay. Thank you so much.

POLICE OFFICER THEODORE STROOPE: Thank you.

HEARING OFFICER CAMILLE VALLEY: Mr. Kallesen, would you please come to the microphone and clearly state your name for the record?

CURT KALLESEN: Good morning. My name is Curt Kallesen.

HEARING OFFICER CAMILLE VALLEY: Would you please raise your right hand? Do you solemnly swear or affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

CURT KALLESEN: Yes ma'am.

HEARING OFFICER CAMILLE VALLEY: Okay. You may proceed and share with me anything you'd like me to consider. Please speak up.

CURT KALLESEN: Absolutely. I live at 2108 63rd Street in Windsor Heights and have done so for 12 years. I own the house there. On approximately March 2nd my wife and I separated. We are going to go through a divorce after a lengthy process of trying to repair our marriage. It's not going to happen. My friend of 44 years lives at 1503 48th Street and had been gracious enough to allow me to move into his house about March 5th, March 4th, March 5th, something like that. It seems to have a small driveway and there's a lot of traffic. He and his wife park there. It is a single lane. I've been parking on the street there in front of 1503 48th Street and I park there every night. I tried to find a good spot where I don't block any driveways. And I've been parking in that spot there because there are about three spots you can park in. This is about the only spot that's not underneath the tree that the birds like to frequent quite a bit. And I tried to be very consistent in where I park so I'd line up on the house. I'd park there on the curb as close as I can get to the curb and I try to angle my car very slightly because I've lost a mirror off my car when I parked there last summer. My friend, Tony Chambers, lost a mirror off his truck there and I would ask this officer to also say that because he goes up and down that street all the time and tell us how many times vehicles lose their mirror on that street, especially in front of that house. Another friend of, that lives in 1503, his friend Denny lost his mirror. And this is all in the last probably 9 months on 48th Street. The day in question which supposedly my car was parked there for 24 hours, my friend's wife and I work together. We carpool every day. That particular day we were running all over town getting parts before we went to our job which is 48 miles away, southeast of here. We went to Sam's Club and O'Reilly's and up to Krieger's and my car was full of parts that we picked up all day long. And then we went down, that day we did not go down to the lake where we work at, but we spent the entire day chasing parts. Then I went out for supper that evening and parked the car there about 9:00 or 9:30 at night in the same spot once again. The next morning I came out and my vehicle was gone. I called the police. They were very expedient in getting there. They told me that it had been impounded. I got the car out of impound and everything. Well, I went to work that day that I got my car out of impound. When I got back home that night and I called police information and asked

them if they could send an officer out to advise me if I've been, you know, parking improperly. After about an hour and one-half, and they said it would be a little while. That was fine. They sent an officer out, a very nice gentleman. I couldn't tell you his name, but I'm sure we can find it on the police records because he said he was on video and I guess they've got all sorts of video now days that the court will allow. I had my car parked in the exact same spot that I always park in and the exact same way. I asked the officer...I just wanted to know if I'm parked illegally. I need to do this properly because I want to continue to park here on this street. I said because the curb is low here, it's old curb and it has not been replaced in that section, I usually try to park there and try to get as close as I can with my right front tire. I turn my steering wheel, turned a little bit. I usually butt the curb. Sometimes because it's so low I might ride up a little bit. I don't park in the grass. I actually get out every night and look to make sure I'm not parked in the grass or anything. So by turning the car just a little bit because my mirror will not pull in on my car, it protects the mirror a little bit.

HEARING OFFICER CAMILLE VALLEY: So when you are parking at an angle, how much of an angle, just for my....

CURT KALLESEN: Uh, and that night the officer that was there, I said, am I parked illegally and this is the way I usually park. My right rear tire is no more than 6 inches off the curb and my right front tire is touching the curb or overlapping the curb. I try not to put the right front tire up on the curb.

HEARING OFFICER CAMILLE VALLEY: So in essence it is about the distance, the difference between the front and the back is the width of the rear view mirror?

CURT KALLESEN: The mirror.

HEARING OFFICER CAMILLE VALLEY: Okay.

CURT KALLESEN: I just, I'm trying to protect the mirror a little bit. In fact, I've done a lot of work for my friend there at 1503 and I've done landscaping for him and concrete work and everything. And last summer when I was working there I went and bought a Home Depot bucket which is bright orange. I put one brick in it and every day when I parked out there I put the bucket behind the left rear corner of my car and it's really amazing to watch cars come down the street and they are just mesmerized by this orange bucket. Everybody slows down. It's not out in the street. It was behind my car. I didn't put it out in traffic. You'd actually have to run into the back of my car, but it just looks like I got something out of the trunk and there is a bucket sitting about a foot behind my bumper. People would slow down. They'd stop. They'd look at it and it was a very nice protector for my mirror. Well, I didn't want to be doing that at night so I angled the car very slightly. My friend Lance's truck is sitting there today. We decided to hook up here in front of the house I live in this morning so we could come down to deal with this this morning. But to get his pickup off the street we now have a friend over in Pleasant Hill and we will meet there. That's a little bit better location for carpooling. So we will get his vehicle off 48th Street which is a major thoroughfare. I mean, but I could just about bet you that any day that you drive down through there, especially up there by Franklin Hospital, there are cars sitting up there with the mirrors hanging off of them. In fact I am really curious, there was one car sitting up there this weekend with both the right and the

left mirror hanging off it. I'm not sure how that was accomplished. I drive a vehicle daily. I've only had it parked there since about March 5th and I didn't even think about having the Windsor Heights police vouch for me or write a statement that my car sits by a house all this time up until the 1st of March. I hope to be getting back in my house again here pretty soon. So, we didn't bring any receipts for driving around that day, but because the company that needs the receipts has them all. My friend Lance can vouch for the fact that the vehicle moves every single day.

HEARING OFFICER CAMILLE VALLEY: Okay. Is that, will he testify? Is he here with you?

CURT KALLESEN: Yes.

HEARING OFFICER CAMILLE VALLEY: Okay. Alright. Do you have anything further you'd like to add?

CURT KALLESEN: No ma'am.

HEARING OFFICER CAMILLE VALLEY: Thank you very much for your testimony.

CURT KALLESEN: Thank you.

HEARING OFFICER CAMILLE VALLEY: If you'd like to come up and I'll swear you in. Whoever has their cell phone, please turn it off. Would you please state your name for the record?

LANCE THOMPSON: Lance Thompson:

HEARING OFFICER CAMILLE VALLEY: Thompson?

LANCE THOMPSON: "Thompson."

HEARING OFFICER CAMILLE VALLEY: Please raise your right hand. Do you solemnly swear or affirm that the testimony you are about to give is the truth, the whole truth and nothing but the truth?

LANCE THOMPSON: I do.

HEARING OFFICER CAMILLE VALLEY: Okay. You may proceed and share with me anything that is relevant to this case.

LANCE THOMPSON: On the day in question, uh, we did run parts. We stopped at Sam's Club, Krieger's, Northern and a few other places to get parts. We got his car loaded up because we carpool to Lake Red Rock where we work. He called me the next morning and said, hey my car's been stolen. Can you come down and get me? I said I sure can. By the time I got there the Des Moines Police were there and said that his car had been impounded. And the police officer gave him his ticket and said it was for being there for over 24 hours and that is not the case. He's been living there for about 2 weeks prior to that because of his situation. And, so, I don't think the officer did his due

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diligence because he didn't put a red tag on it. He said he chalked the tire. I doubt that a whole lot because we'd walk around the car every day.

HEARING OFFICER CAMILLE VALLEY: Okay. So you were riding with him in the vehicle the day before it was impounded? Can you tell me what time then, approximately then, what date and time was the last time you were in it that you were actually moving around? Estimate.

LANCE THOMPSON: Oh, the last time I was in it. We usually get done about 5:00 in the afternoon.

HEARING OFFICER CAMILLE VALLEY: Okay. Okay. I appreciate your testimony.

LANCE THOMPSON: Thank you.

HEARING OFFICER CAMILLE VALLEY: I know nothing about these cases until I hear them so I will deliberate on the testimony I've heard and evidence I've received and develop a final written ruling which I will submit to the City Clerk's Office and she will make sure you get a copy. So, until that point in time you can hold off if there was a fine due with this citation, paying that until you see how I rule on it. Okay. So I thank you very much for your time and testimony this morning and this case is adjourned.

I, Renae Lampkin, certify that I transcribed the minutes of the April 4, 2011 Administrative Hearing pertaining to the vehicle impound of Curt Kallesen.

Renae Lampkin

EXHIBIT 6

IMPOUND MOTOR VEHICLE

Case No. 11-7556 Tag No. 293785

Property Sheet No. _____

Where Found 1400B 48th

Date 3-15-11 Time 0035

Color Mar Year 93

Make NISS Body MAX

License No. 078WRC

Serial No. JN1+501FZPT133857

Registered To Curtis Kalleesen

Address 2108 63rd St

Why Held: Ill. Pkg. Assn. Traffic ()

Stolen Car () Driver in Jail ()

Others _____

Condition Poor

Towed To GHS

Officers 5102

Receipt for Car

Received the above described car
this 15 day of Mar 20 11

Sig. of Owner Curt Kalle

Address 2108 63rd St

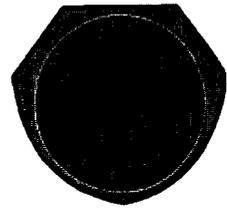
Released by 4128 0800

Des Moines Police Department IMPOUND TOWING COST SHEET

This should be filled out by the tow truck driver providing the service.

Check off service tasks utilized below:

- Tow with wrecker \$20.00
- Second Tow with a wrecker \$75.00
- Towing with a Flatbed \$50.00
- Unlocking car doors \$25.00
- Winching \$75.00 per hour
- Unlocking linkage \$25.00
- Rehooking \$25.00
- Using a dollie \$25.00
- Towing semi truck \$175.00 per hour
- Towing semi trailer \$175.00 per hour
- Other



Please list other service tasks below:

Case Number: 11 7556

Canell
Tow Driver Signature

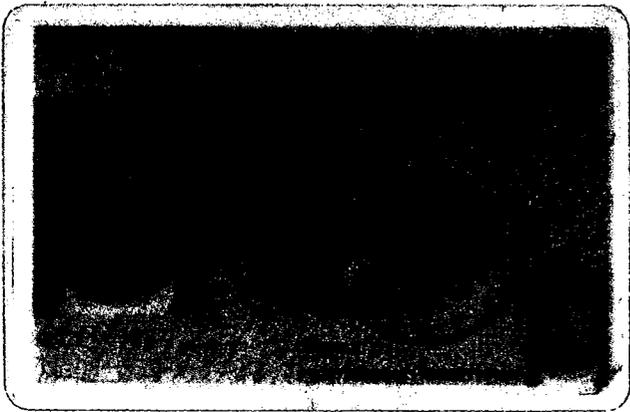
Location: 1504 48th

Date/Time: 3/15/11

Vehicle Description: Nissan Maxima Maroon

White Copy: Tow Driver JW/HJ OIF2PT 133857
Yellow Copy: Police Officer

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QQ.ORI/.LIC/078WRG 112 20110315 - 01:00:35

PDM1.

LIC/078WRG .LIT/STANDARD LIT/PC

PRIVATE

OWNER(S)/KALLESEN, CURTIS LEE DOB/19611027 SOC-0LN/134AC8477
2108 63RD ST
WINDSOR HEIGHTS IA 50324

VIN/ MAR 1993 NISS NISSAN MAX MAXIMA GXE 4D
JN1HJ01F2PT133857 AUTOMOBILE USE/REGULAR

VAL CO/POLK NO/078WRG10201101 EXP/10-2011
REGISTRATION DATE/2010-11-10 PREV PLATE/Z2129
TITLE DATE/2009-05-28 NO/77AG42750 PREV TITLE CO/ NO/

;201103150100/201103150100
PDM1 64
MESSAGE FROM MVR
009864

QQ.ORI/.LIC/078WRG 112 20110315 - 01:00:34

PDM1.

* NO MATCH ON INQUIRY *
LIC/078WRG.LIS/IA

;201103150100/201103150100
PDM1 61
MESSAGE FROM IOWA
009860

QQ.ORI/.VIN/JN1HJ01F2PT133857 112 20110315 - 01:03:04

1L01PDM1,MRI07SS06C
IA0770300
NO RECORD VIN/JN1HJ01F2PT133857

;201103150103/201103150103
PDM1 70
MESSAGE FROM NCIC
010110

TICKET INFORMATION

Printed By: Ismain

Print Date: 03/21/2011

Citation Information

| | | | |
|--|------------------------------------|-----------------------------|---|
| Number: 7090589 | Issue Date: 03/15/2011 | Issue Time: 00:35 |  |
| Permit: | Permit Type: | Agency Code: DM | |
| Officer ID: 5021 | Officer Name: STROOPE, THEODORE | | |
| ID: | Meter: | Chalk Time: : | Route: |
| Mark Block: | Street: | | |
| Block: | Street: 1400 BLK 48TH | Suffix: | Direction: |
| Comment1: IMP# 293785 CASE# 11-7556 | | Amount Due: \$15.00 | |
| Comment 2: | | Date Entered: 03/17/2011 | |
| Comment 3: | | Comment 4: | |

Violation

| |
|--------------------|
| 33 - OVER 24 HOURS |
|--------------------|

User Defined Flag

| |
|--|
| |
|--|

User Defined

| | |
|--------------|--|
| DOT VIN: | |
| User Defined | |
| MakeModelY: | |
| COUNTY: | |
| INSUR: | |

Vehicle Information

| | | | | | |
|--------------------------|-----------------|-----------|-----------------------|---------------------|------------------|
| License Plate: 078WRG | State: IA | Type: | Lic. Year: 10/2010 | Major Color: RED | Minor Color: |
| Body Style: 4D | Model Year: | VIN: | Make: NISS | Model: | |

Person Information

| | |
|-----------|-----------------|
| Name: | Account_ID: |
|-----------|-----------------|

Finance Activity

| Code | Debit | Paid | Action Date | Paid Type | Receipt# | Void |
|------|---------|------|-------------|-----------|----------|------|
| 33 | \$15.00 | | 03/15/2011 | | | |

Status Activity

| Clerk | Date | Code | Description |
|-------|------|------|-------------|
| | | | |

Related People

| Name | TitleStart | TitleEnd |
|------|------------|----------|
| | | |