



# The new Predatory Towing Act

Towing: A necessary, if sometimes nasty business. A new law increases oversight over the towers — but also sets forth requirements which community associations must follow to get vehicles removed from their properties.

## By Mary W. Barrett

When a parking war erupted last year between two adjacent restaurants in northern New Jersey, the battle resulted in a law that affects the rights of community associations to tow vehicles from their premises. In October 2007, Gov. Jon S. Corzine signed into law the “Predatory Towing Prevention Act,” which primarily increases oversight of tow companies. While a law regulating tow companies may not seem relevant to your community association, if you want to tow vehicles from private property areas, it does have implications that could affect your ability to do so.

As expected, the Towing Act mainly regulates what tow companies

must do and not do. One provision, however, directly addresses what a private property owner must do before removing a vehicle from its premises without the vehicle owner’s permission. A property owner may only cause removal of a motor vehicle parked on the property if certain signs are posted, the storage facility is a reasonable distance from the property, and the tow company complies with the Towing Act. The law further requires a tow company to obtain written authorization from the property owner for the tow.

The signage requirement is burdensome and may be aesthetically undesirable. Signs that are at least 36 inches high and 36 inches wide must be installed “in a conspicuous place at all vehicular entrances to the

property which can easily be seen by the public.” They must state the following:

- The purpose for which parking is authorized and the times during which it is permitted;
- That unauthorized parking is prohibited and unauthorized vehicles will be towed at the vehicle owner’s expense.
- The name, address and telephone number of the towing company that will perform the towing.
- The charges for the towing and storage.
- The street address of the storage facility where towed cars can be redeemed and the times during which the vehicles may be redeemed.

If the required signs are not posted, a property owner still may tow vehicles parked (a) on a lot on which a single family home is located, (b) on a lot on which an owner occupied multi-unit structure of not more than six units is located, or (c) in front of any driveway where the motor vehicle is blocking access to that driveway. While legal arguments could be made that the first two exceptions should exempt many associations from the signage requirements, it is likely that a tow company still would require compliance before removing vehicles.

A community association also must provide written authorization and have a representative present in order to get a vehicle towed. The Towing Act requires a tow company obtain written authorization from the property owner (or its agent) and that the property owner (or agent) be present as the vehicle is towed to verify the alleged violation. A general written authorization is permissible for towing done outside the property owner’s normal business hours or to remove a vehicle that blocks a fire hydrant or entrance to the property. Vehicles must be removed to a storage facility within a reasonable distance from the property.

The Towing Act does not address the many obvious differences between community associations and a busy mall or restaurant parking lot. Community associations often will have very different reasons for towing vehicles than a retail center.

A community association may tow a vehicle if the owner’s membership rights have been suspended for delinquency in the payment of maintenance fees or if a vehicle violates the rules in some way. Community associations also have more opportunities for communicating directly with vehicle owners than businesses serving a transient population and can give unit owners advance

written notice of any actions or rules changes. Unit owners, as members of the community association, have the obligation to know and comply with the rules. Despite these differences, the Towing Act as currently written appears to apply to community associations and it is not clear how, ultimately, it will be enforced.

What is clear is that the law is scheduled to go into effect in October. If your community association uses towing services to remove vehicles from its private property, discuss the law with your towing company and ensure that proper signage is posted. You also should be aware that there may be regulations established by the local municipality that apply to the removal of vehicles from private property. With any vehicle towing policy, legal counsel should always be consulted first to establish proper procedures.

---

*Mary W. Barrett is counsel to Stark & Stark in Lawrenceville, practicing in its community associations group. She represents non-profit corporations and focuses on homeowners and condominium associations and cooperatives. Reach her at (609) 219-7408; mbarrett@stark-stark.com.*

---