

Communication from Public

Name: Shayla Myers
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Council File No: 21-0956-S2
Comments for Public Posting: Please see attached.

213-640-3983

August 28, 2024

VIA ELECTRONIC MAIL

The Hon. Hydee Feldstein Soto
Los Angeles City Attorney
200 N. Main St., Suite 800
Los Angeles, California 90012

The Hon. Paul Krekorian
Los Angeles City Council President
200 N. Spring St.
Los Angeles, California 90012

RE: Council File 21-0956-S2, Instruction to LADOT to Tow Vehicles

Dear Hon. Hydee Feldstein Soto and The Hon. Paul Krekorian:

We write on behalf of our clients, low-income residents and organizations who pay taxes within the City of Los Angeles and who are concerned about the City's actions towards unhoused and low income residents. Of particular concern is the instruction given by the Los Angeles City Council on Friday, August 16, 2024 to the Los Angeles Department of Transportation (LADOT) to "tow away any and all vehicles that are stopped or parked in violation of" a number of provisions of the Los Angeles Municipal Code. As outlined below, City Council's instruction to LADOT is inconsistent with the LAMC, state law, and the U.S. and California Constitutions.

The motion at issue was passed after the Council approved an amendment to the original motion, which called for clarification of the City's policy to ensure that LADOT could tow vehicles in "no stopping no parking" zones and peak traffic lanes. The amendment, introduced by Council Member John Lee and seconded by Council Member Traci Park, was read into the record by the City Attorney. The amendment greatly expanded the original motion by explicitly instructing LADOT to tow "any and all vehicles that are stopped or parked" in violation of:

- Section 80.54, which allows the City to create overnight parking districts and a permit system for residents residing in those districts;
- Section 80.69, which broadly prohibits parking in areas determined by LADOT to warrant parking, stopping, and/or standing restrictions, including for example, in violation of parking time limits set by the department; and

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East Los Angeles Office, 5301 Whittier Blvd., 4th Floor, Los Angeles, CA 90022; 213-640-3883
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- Section 80.69.4, which prohibits oversized vehicles from parking in specific areas overnight.

A number of city council members raised concerns about the breadth of the resolution, and Council Member Yaroslavsky asked the City Attorney to weigh in about whether the resolution would raise Fourth Amendment Search and Seizure concerns. Yet rather than sending the motion back to the Transportation Committee to discuss the implications of this sweeping amendment, as Council Members Hernandez and Raman requested and six members voted to do, the City Council pushed forward with a vote and adopted the motion, as amended.

The motion and amendment are fundamentally inconsistent with the LAMC and state law and violate well-established constitutional principles, including principles laid out by the U.S. District Court as recently as June 2024 in a lawsuit against the City of Los Angeles, *Fitzpatrick v. City of Los Angeles*.¹

First, despite the City Council’s instruction to tow “any and all vehicles” parked in violation of various provisions of the LAMC, neither the municipal code nor state law authorize such a draconian approach. On the contrary, both state law and the municipal code, consistent with due process requirements in the U.S. and State Constitutions, allow LADOT to tow vehicles only “which has been parked or left standing in violation of an official sign prohibiting the stopping or parking of vehicles and giving notice that such vehicle may be removed.”² It does not, as the amended motion instructs, allow “any and all vehicles” to be towed simply for violating the provisions. In fact, Section 80.54 does not even authorize LADOT to post signs stating that vehicles in violation of the ordinance may be towed. And Section 80.69 instructs LADOT to post signs only in specific circumstances, leaving entire sections of the ordinance that cannot legally be enforced via tow.³

Second, even when the Municipal Code or state law does authorize the City to tow vehicles for violations of the municipal code, the City can do so only consistent with the Fourth Amendment to the U.S. Constitution and Article I, Section 13 of the California Constitution. Under these provisions, the towing of a vehicle is a seizure.⁴ The City is therefore subject to constitutional requirements that mandate when and under what circumstances it may lawfully tow vehicles. When a vehicle is towed without a warrant, which is the case when the City tows a vehicle for violations of these municipal code provisions, the tow is *per se* unreasonable, and therefore unconstitutional, unless the tow falls

¹See *Fitzpatrick v. City of Los Angeles*, case no. 2:21-cv-06841-JGB-SP, at p. 10-11 (C.D. Cal. June 13, 2024) (granting summary judgment to plaintiff on her Fourth Amendment claim that her vehicle was unconstitutionally towed, even though the City argued it was illegally parked at the time, because the City put forth no evidence the vehicle “‘jeopardize[ed] public safety and the efficient movement of vehicular traffic’ sufficient to invoke the community caretaking exception.”) 2 LAMC Section 80.77(c).

³ See e.g., LAMC Section 80.69(b). Section 80.69 authorizes LADOT to “include notice on any sign which prohibits the stopping or parking of vehicles, that vehicles parked or left standing in violation of such sign may be removed.” Section 80.69(b) on the other hand allows LADOT to prohibit parking at any time or during certain hours. Prohibitions under this section do not prohibit stopping, so LADOT may not place signs stating that vehicles may be towed in violation of these provisions.

⁴ *Brewster v. Beck*, 859 F.3d 1194, 1196 (9th Cir. 2011). See also *Miranda v. City of Cornelius*, 429 F.3d 858, 862 (9th Cir. 2005).

within a few specifically established and well delineated exceptions.⁵ It is not enough that the vehicle is simply parked illegally. Instead, whether a tow is reasonable “depends on the location of the vehicle and the police officers' duty to prevent it from creating a hazard to other drivers or from being a target for vandalism or theft.”⁶

State law is also clear on this point. The City may tow vehicles only pursuant to the authority given to it and for the reason provided under California’s Vehicle Code.⁷ When the City seeks to tow a vehicle for one of the reasons outlined in the Vehicle Code, including the one which forms the basis for the City’s authority to tow certain vehicles in violation of the provisions at issue in this motion, Section 22650 of the Vehicle Code explicitly states that the tow must also be “necessary to achieve [a] community caretaking need, such as ensuring the safe flow of traffic or protecting property from theft or vandalism.”⁸

Contrary to these well-established legal principles, the City Council’s instruction to LADOT to tow “any and all vehicles” does not permit LADOT to undertake the careful analysis required by state law and the Constitution before towing a vehicle.

During the debate, a number of council members, including Council Member Lee , McOsker and others stated that the amendment simply instructs LADOT to enforce the law. The amendment does precisely the opposite. It instructs LADOT to violate the law by towing vehicles, regardless of whether the law allows those tows. Whether these statements were intentional misrepresentations to the public or simply a misunderstanding about the scope of the motion is irrelevant. The amendment as written and passed by the City Council is a sweeping instruction that explicitly demands that LADOT violate California law and the United States Constitution, to the detriment of tens of thousands of Angelenos, to say nothing of LADOT and parking enforcement officer who have received the illegal and unconstitutional instruction from the City Council.

As the City Council should well know, towing a person’s vehicle not only has constitutional implications for the City, it has significant financial implications for the owner of the vehicle.⁹ The City of Los Angeles and its contracted garages charge a number of fees when a vehicle is towed, from a minimum \$158 towing fee and \$115 vehicle release fee, to \$50 a day storage fees, which are compounded daily.¹⁰ These fees can add up, often resulting in towing bills in the hundreds or even thousands of dollars--all of which must be paid before a vehicle can be released. As a result, low income residents frequently lose their vehicles when they are towed. This is true both for people living in vehicles and RVs and for residents in this City who rely on those vehicles only for transportation—to work, school, the doctor, and to run other vital errands. Losing a vehicle can cause a downward

⁵ *Garcia v. City of Los Angeles*, 11 F.4th 1113, (9th Cir. 2021); *Recchia v. City of Los Angeles Department of Animal Services*, 889 F.3d 553, 558 (9th Cir. 2018).

⁶ *U.S. v. Caseres*, 533 F.3d 1064, 1075 (9th Cir. 2008)

⁷ *See* Veh. Code § 21.

⁸ Veh. Code § 22650(c).

⁹ *See* Western Center on Law and Poverty, et al, “Towed into Debt,” March 19, 2019 available at <https://wclp.org/wp-content/uploads/2019/03/TowedIntoDebt.Report.pdf>.

¹⁰ *See* Official Police Garages, Towing and Storage Rates, available at <http://www.opgla.com/Rates>. *See also* LAMC Section 80.77.1 (setting the City vehicle release fee of \$115.00).

spiral of economic crises that ends in homelessness.¹¹ And for residents who are already unhoused, it can make it that much harder for them to come inside. Yet despite these significant consequences for the most vulnerable residents in Los Angeles, the City Council passed a motion instructing LADOT to tow “any and all vehicles” for minor traffic violations, with no regard for the implications for Angelenos, let alone the municipal code, state law, and the Constitution.

Please let us know how the City intends to address this issue. I can be reached at the contact information above or smyers@lafla.org to discuss this matter further. If the City does not confirm that it is withdrawing the instruction to LADOT by September 16, 2024, we intend to take further legal steps to prevent LADOT from illegally towing vehicles consistent with the City Council’s instruction.

Sincerely,



Shayla Myers
Senior Attorney

CC: Hon. Eunisses Hernandez
Hon. Bob Blumenfield
Hon. Nithya Raman
Hon. Katy Yaroslavsky
Hon. Imelda Padilla
Hon. Monica Rodriguez
Hon. Marqueece Harris-Dawson
Hon. Curren D. Price, Jr.
Hon. Heather Hutt
Hon. Traci Park
Hon. John Lee
Hon. Hugo Soto-Martínez
Hon. Kevin de León
Hon. Tim McOsker

¹¹ See generally “Towed into Debt,” *supra* note 10 at 16-21 (discussing the collateral consequences of vehicle tows and in particular, the impact on low-income Californians).