

Letter to the Editor: Has Your Car Been Towed, If So You May Be Entitled to A Refund

Has your car been towed in Clifton by one of the four official towers in the City of Clifton since July 15, 2008 until the present? If so, you may have been overcharged by one of these towers and may be entitled to a refund. Here is why. Were you charged a \$115 winching charge or NJ Sales tax or a \$3.00 CC (credit card fee)? I believe these fees should be refunded to you.

Recently, my vehicle was in an accident and (despite the fact that my vehicle is equipped with roadside assistance and this tower was in route and only 5 minutes away), I was forced to have my car towed by one of the City of Clifton's official towers. Since my tower was only 5 minutes away and I wanted my vehicle towed directly to the car dealership I have used since 1991, I requested this official City tower only tow my car approximately 50 ft off the side of the road so that my tower would take the vehicle directly to the dealer (and I didn't want to be forced to pay this official tower any storage fees). The towing charge was \$246.05 which I immediately thought was an outrageous amount of money. Unfortunately, the tower told me either pay him in cash or with a credit card (no American Express card though) or he wouldn't let me have my car. This \$246.05 charge consisted of a \$100 towing fee, a \$115 winching fee, a \$20 City of Clifton Administration Fee, \$8.05 NJ Sales Tax and then a \$3.00 CC fee. When my tower arrived, he did not have to winch (or pull my car up onto the flatbed tow truck with a hook as the official City tower did for \$115 but simply drove my car right up onto the tow truck. Clearly, my car did not have to be winched but was only winched in an effort to inflate the charges. The next day, I called the tower to complain about this outrageous bill and was told there was nothing I could do and also the CC fee was a credit card charge. Needless to say, this is when I decided to do some checking of my own.

On July 15, 2008, the Clifton City Council voted unanimously (with the exception of Councilman Cupoli who abstained from the vote) to amend chapter 425 -12 of the City of Clifton Code entitled "Official Towers -Rates" to protect the public from predatory towing fees. I quote directly from the amended code - "\$100 for towing a passenger vehicle, motorcycle or a truck having a capacity of one ton or less, which shall **INCLUDE ALL SERVICES RENDERED BY THE OFFICIAL TOWER TO FACILITATE THE TOW**". The Code then states "Winching and/or recovery service - passenger vehicles and other vehicles having a capacity of one ton or less: \$115. I confirmed with four outside attorneys and all said that it could be argued that the first part of the Code is inconsistent with the second statement since the paragraph clearly states that \$100 shall include all services rendered by the official tower. One could also argue that the charge should only be either \$100 or \$115, but clearly not both. Further, since the ordinance refers to state statute NJAC 11:3-38.1 which does not exist, the entire ordinance should be amended.

According to the NJ Sales Tax Guide (Bulletin S & U-4 revised May 2008) published by the NJ Division of Taxation, towing is listed as an exempt service on page 18. Therefore, this official tower of the City of Clifton should not have charged me sales tax. The City attorney in a recent memo to the City Council concurred with these findings.

Finally, according to Visa (which was the credit card I used); the tower should not have charged a credit charge fee regardless of the amount of the fee.

Last year, these four official towers towed 2,200 vehicles. Let's do the math. If these four towers winched every car that would mean that the public was overcharged by \$253,000. Additionally, if they charged sales tax of \$8.05 to each of these 2,200 vehicles that would be another \$17,710 and if they charged each car the \$3.00 credit card fee that's another \$6,600. At my request, the Clifton City Council through its towing committee (which consists of Councilman Eager, Ward and Councilwoman Kolodziej) will conduct an audit of the invoicing of all four official towers since the ordinance was changed in July 2008.

If anyone feels that they might be entitled to a refund from any of these official City of Clifton towers, I strongly suggest they contact the Council or City Manager or me.

Mary Sadrakula
Clifton, NJ