



Your Community Association Advocate Since 1982

(727) 736-1901

www.TankelLawGroup.com

Info@TankelLawGroup.com

Association Towing Techniques

Few occurrences infuriate unit owners and homeowners more than vehicles improperly parked in their designated spots. These owners inevitably lash with their frustrations at the Association's Board of Directors. While towing improperly parked vehicles is a great self-help remedy for Associations, Boards must take care not to risk liability by exceeding their authority or violating Florida Statute. The following considerations and measures must be taken into account to ensure towing is properly performed.

Board Authority

As is the case with the vast majority of Association rule enforcement issues, the Board should first determine if it has the authority to make rules and regulations. In Homeowner Associations, rulemaking authority flows exclusively from the Association's governing documents (Declaration, By-Laws, Articles). If the Homeowner Association has authority to broadly regulate common areas, and there are parking spots within these common areas, the Homeowner Association can adopt towing rules in these areas. Remember that new rules must be recorded and sent to all homeowners.

Condominium Associations are specifically permitted the power to tow by statute, but that authority may be limited by the Declaration or By-Laws. For Homeowner and Condominium Associations that have rule making authority over parking spaces within common or limited common elements, the Board may enact towing rules as long as the rule does not conflict with other provisions of the governing documents.

Statutory Considerations

Assuming the Association's rules are in order, an Association's ability to tow is also dictated by Florida Statute § 715.07(2). This Statute permits towing over any area owned by the Association. This tends not to be a concern for Condominium Associations if towing is limited to common elements. However, Homeowner Associations must take care not to tow vehicles from publically owned streets or owner's lots and driveways.

The Statute will protect an Association from liability if proper notice is provided to the owner of the vehicle. In lieu of personal notice to the vehicle's owner, Florida Statute § 715.07(2)(a)(5) permits posting very specific signage (size, location, content, lettering) in the area where towing will be enforced. This Statute also requires the tow company to be located within a certain distance of the point of removal, that the tow company remain open during certain hours, and that the company notify police and identify a towed vehicle once it is removed. Finally, local governments are permitted to enact additional towing regulations.

Best practice for Associations is to create and publish a "Towing Procedure" which will serve to put the community on notice and thereby reduce violations, and offer the Association added protection against those claiming lack of notice. The procedures should detail the restrictions, and designate a person or entity responsible for enforcing the towing.

Improperly towed vehicles may be subject to monetary, and even criminal penalties if towed incorrectly. If your Association is interested in towing improperly parked vehicles, the Tankel Law Group strongly recommends first contacting our office to ensure towing procedures comply with the Association's governing documents and Florida Statute.



TANKEL LAW GROUP
REPRESENTING COMMUNITY ASSOCIATIONS

Main Office:

**1022 Main Street, Suite D
Dunedin, FL 34698**

By Appointment:

Jacksonville · Orlando · Tampa

(727) 239-0295 • (888) 266-3652 • Info@TankelLawGroup.com

www.TankelLawGroup.com