Parking Adjudication Administrative Hearing Examiner's Manual

4.Post Impound Hearing Manual

POST IMPOUND

Vehicle still in tow yard?

YES
Urgent Impound Hearing

DETERMINE

Did Reasonable Grounds exist to justify the impound of the vehicle?
CVC 22650(a)

REASONABLE GROUNDS

Was notice of impound sent within 48 hours excluding weekends and holidays?
CVC 22852(b)

Has the vehicle been in tow yard long enough to warrant a partial waiver of storage of fees?

If **Yes**, Calculate waiver amount and fax decision and refund order to tow yard along with decision.

The Respondent is responsible for all tow yard fees to obtain release of vehicle minus any possible days waived due to improper notification issues..

NO REASONABLE GROUNDS

Are there excessive storage fees?

Determine what caused the delay, if any. AHE's needs to make a determination if days should be waived or if Respondent should be held responsible for excessive storage fees.

If there are no excessive storage issues.

AHE's will render their decision orally to the Respondent, complete a full refund waiver of towing and storage , fax it to the OPG, and advise the Respondent that a Notice of Decision letter will be mailed to them in 3 to 14 days.

NO
Impound Hearing

DETERMINE

Did Reasonable Grounds exist to justify the impound of the vehicle?
CVC 22650(a)

REASONABLE GROUNDS

Was notice of impound sent within 48 hours excluding weekends and holidays?
CVC 22852(b)

Has the vehicle been in tow yard long enough to warrant a partial waiver of storage of fees?

If **Yes**, Calculate waiver amount and reflect on decision and Refund Order.

The Respondent is responsible for all tow yard fees to obtain release of vehicle minus any possible days waived due to improper notifcation issues.

NO REASONABLE GROUNDS

Are there excessive storage fees?

Determine what caused the delay, if any. AHE's needs to make a determination if days should be waived or if Respondent should be held responsible for excessive storage fees.

If there are no excessive storage issues.

AHE's will advise the Respondent that a Notice of Decision letter will be mailed to them in 3 to 14 days.

AHE's will complete a full refund waiver of towing and storage fees related to the impound.

Respondents can appeal the Examiner's decision by appealing to the City Clerk for damages

Overview

Post Impound Hearings are conducted by Parking Adjudication Division Administrative Hearing Examiners to determine the validity of the Impoundment and/or storage of vehicles that have been impounded by the Department. Specific notification procedures and due process requirements for these hearings are mandated by California Vehicle Code Section 22852 and by several court decisions. The Adjudication Division has developed administrative procedures to schedule and conduct the hearings in compliance with the legal mandates.

The Adjudication Division has assumed hearing responsibilities for all five of the DOT Enforcement Areas throughout the City. The three Adjudication Offices where hearings are conducted are located in West Los Angeles, Van Nuys, and the Civic Center.

This Post Impound Hearing Manual provides Hearing Examiners with information regarding legal requirements, common issues, disposition codes, procedures, and forms associated with the Post Impound Hearings. It should be noted that this manual deals only with hearings for vehicles impounded by Department of Transportation officers. Hearings for vehicles impounded by the Los Angeles Police Department (LAPD) are conducted separately by LAPD personnel. In addition, Department of Airport personnel conduct hearings for vehicles impounded at Los Angeles airports.

Unique Aspects of Post Impound Hearings

A hearing examiner who normally conducts in-person parking citation hearings will notice that the general format for conducting post impound hearings is very similar to the format for regular in-person citation hearings. However, there are several major differences. These differences are listed below and will be discussed throughout the manual.

1. Enforcement, VIPU and adjudication staff, rather than PVB, are responsible for gathering all hearing information, assembling case files, and scheduling hearing appointment dates and times.

2. Strict notification and hearing timelines must be met.
3. The impounding officer will usually be present at the hearing. The respondent may question and cross examine the officer. If the impounding officer does not attend the hearing the respondent must "waive his right" to have the officer at the hearing in order for the hearing to be conducted.
4. "Reasonable Grounds" or "No Reasonable Grounds" (see note below) is determined rather than "Liable" or "Not Liable".
5. Determinations of Reasonable Grounds and No Reasonable Grounds are to be based upon the authority for and the validity of the impound.
6. If the respondent wishes to appeal the examiner's decision, the respondent may file a claim with the City Clerk.
7. When a refund for towing or storage charges is granted by the hearing examiner, the refund will be processed and mailed even if there are outstanding citations listed on the respondent's record.
8. If a parking citation was issued in conjunction with the impound, the citation itself is normally not adjudicated at the impound hearing. Depending on the circumstances of the case, only the legitimacy of the impoundment and storage of the vehicle is considered. In most cases, the citation should be contested separately through the regular hearing process as outlined in CVC 40215.

Note: In the instances when the examiner wishes to rule on the validity of a citation during the course of an impound hearing where there is a finding of no reasonable.

Purpose

The purpose of conducting a Post Impound Hearing is to provide due process for individuals whose vehicles have been impounded by Department of Transportation parking enforcement officers and to comply with all judicial and statutory requirements pertaining to such hearings.

Policy

It is Department policy to provide a timely hearing to any entitled person who has had a vehicle impounded by the Department of Transportation. The hearing may be conducted either before or after the impound and storage fees have been paid.

Stolen Vehicle Recovery

Summary: Per the LAPD Manual, LAPD authorized LADOT to be the recovering agency for all stolen vehicle impounds. After a stolen vehicle has been impounded by LADOT, all other aspects of the CVC Section 22651(c) impound are handled by LAPD.

*For more details and further clarification, please see the Department Memo dated December 3, 2018, which is included within Section 9.

CVC Reasons for Impound

The most common reasons that vehicles are impounded by Parking Enforcement Officers are for violations of the California Vehicle Code (CVC) sections listed below. Please note, it is crucial to examine the Vehicle Impound Report to determine if the Officer used the correct CVC authority to impound the vehicle. If the Officer listed the incorrect authority (e.g. CVC 22651(L) instead of CVC22651(M)), the impound would not be justified and it would therefore be held invalid.

CVC 22651

A. Bridge, viaduct, tube or tunnel

B. Traffic hazard

C. Blocking driveway

D. Fire hydrant

E. 5 or more delinquent citations

F. Illegally parked--no evidence of registration

G. 72 or more consecutive hours

H. Temporary tow-away: cleaning, repair, or construction of the highway; or installation of underground utilities

I. Temporary tow-away: use of the highway for a purpose other than normal flow of traffic or for non-highway construction

J. Posted tow-away zone (may include Red Flag Alert Days)

K. Registration/tags expired in excess of six months

L. Mobile billboard advertising display

*Impounds justified under California Vehicle Code Section 22651 subsections "L" and "M" are separate and distinct from each other. They may not be used interchangeably since they address different circumstances. It is imperative to determine that the Officer cited the correct authority. If the Officer cited the incorrect authority, the City would not have had the required justification to remove the vehicle from the street and the impound would be invalid.

CVC 22654

- Violation of any sections of CVC 22500, "Prohibited Stopping, Standing, or Parking".

CVC 22669

A. Abandoned vehicles appraised from $300-$2500.

B. Vehicles declared a hazard to public health, safety, and welfare appraised under $100.

72-Hour Law

Summary: All 72-hour violation Decisions shall include a copy of Sackman v. City of Los Angeles. In this case, the Court held that the 72-hour restriction was "rationally related to the legitimate City objective" of preventing vehicles from monopolizing parking spaces and preventing the abandonment of vehicles. The Court also held that no signs are required for this restriction and that the simple act of publishing this statute is sufficient notice that the restriction is in effect.

*For more details and further clarification, please see the Department Memo dated February 23, 2017, which is included within Section 9.

Required Notification and Hearing Procedures - CVC Section 22852

The procedure for Post Impound Hearings is contained in Section 22852 of the California Vehicle Code and is outlined as follows:

A. The agency directing the tow/storage shall provide the vehicle's registered and legal owners of record, or their agents, with the opportunity for a post storage hearing to determine the validity of the towing/storage.

B. A notice of such storage shall be mailed or personally delivered to the registered and legal owners within 48 hours, excluding weekends and holidays, and shall include the following information:

   I. The name, address, and telephone number of the agency providing the notice;

   II. The location of the place or storage and description of the vehicle which shall include, if available, the name or make, manufacturer, license plate number and mileage;

   III. The authority and purpose for the removal of the vehicle.

C. The notification shall also specify that, in order to receive their post impound hearing, owners and agents must request the hearing in person, in writing or by telephone within **ten days** of the date appearing on the notice.

D. The hearing shall be conducted **within 48 hours of the request** if the vehicle has not been retrieved from the Official Parking Garage (OPG) unless waived by mutual agreement, excluding weekends and holidays. (see note)

Note: In the case of City of Los Angeles vs David, 538 US 715, it was held that, since the vehicle had already been recovered, delaying the hearing was no more than a routine delay and caused no further harm to the respondent.

E. Failure of either the registered or legal owner or his or her agent, to request or to attend a scheduled hearing shall satisfy the post storage validity hearing requirements of 22852 C.V.C.

Hearing Process Requirements

The following is a summary of the fundamental general and legal principles for a vehicle impound due process hearing:

1. The hearing should afford an opportunity to be heard at a meaningful time and in a meaningful manner.
2. The hearing should present a method to test the factual basis of the tow and storage.
3. The hearing should provide a procedure to assure reliability of the determination that the seizure and detention are justified.
4. The hearing should be conducted by an impartial hearing officer who must know, consider and appraise the evidence.
5. The individual requesting the hearing must be given an adequate notice to be heard.
6. The hearing must provide an orderly process in which the individual has an opportunity to be heard and to defend his rights.

7. Documents and other evidence used to prove the City's position must be disclosed to the individual requesting the hearings so that the individual has an opportunity to show that the impound was improper.

8. The hearing should provide an opportunity to confront and cross-examine adverse witnesses (i.e., the impounding traffic officer).

Role of a Hearing Examiner

The hearing examiner needs to become especially familiar with CVC 22650, CVC 22651, CVC 22852, DOT's Vehicle Impound/Immobilization Report (Form DT-5010), DOT forms and impounding procedures, and the TIMS Post Impound Macro and disposition codes.

The examiner ultimately makes two main determinations when conducting due process post impound hearings. First, the examiner decides if the City had "Reasonable Grounds" or "No Reasonable Grounds" to impound a vehicle. Second, the examiner determines if notification of the impound was processed in accordance with CVC 22852. The notification issue helps determine if storage fees were properly imposed and if any of those fees should be waived or refunded.

Reasonable Grounds is determined when the City demonstrates that the impounding officer had a reasonable belief that a vehicle was in violation of a statute which allows for impoundment. In addition, the City must show that the officer complied with established impounding procedures and completed the Vehicle Impound/Immobilization Form.

Evidence of mitigation introduced by respondents (such as proof of disabled vehicles, medical emergencies, broken odometers, good faith attempts to register the vehicle, etc.) is generally not sufficient in and of itself to overcome a Reasonable Grounds finding.

Issues involving payment of storage fees are usually determined by the City's compliance with notification procedures and the respondent's timeliness in retrieving the vehicle from an OPG. The City is required to mail notice of the storage to the registered and legal owners within 48 hours, excluding holidays and weekends. This notice is mailed to the address which is on file

with DMV. The examiner needs to determine if the City fulfilled its notification obligations or if a City error resulted in the delay or prevention of this notice being mailed.

The examiner should keep in mind that a final decision is based on all supporting documentation as well as on any relevant testimony by the respondent and witnesses. Credibility judgments are part of this decision-making process. The examiner considers all the evidence that has been presented and bases the findings on a preponderance of the evidence, including testimony.

Conduct of a Hearing Examiner

The examiner should review the Citation Hearing Manual since most of the general information regarding citation hearings also apply to the post impound hearing.

Post impound hearings may become very emotional in tone since an individual may be very upset that his or her vehicle was impounded. Additionally, impound and storage fees can be very costly. An examiner should expect some degree of discussion or conflict, but must be alert to a respondent's escalating emotions and maintain control of the hearing. Keep a calm, fair and courteous demeanor. Warn a hearing participant if he or she is not acting appropriately. If a hearing participant continues to act inappropriately or abusively, the examiner should request assistance from a supervisor or request security to escort the person out of the office.

The examiner must allow the respondent ample opportunity to ask the officer relevant questions pertaining to the impound. The examiner must control the scope, tone and relevance of the questioning. The examiner must not allow the respondent and traffic officer to get into any type of heated confrontation.

It is imperative to note that absolutely every piece of evidence considered during an in-person post impound hearing must be considered by the hearing examiner in the presence of the respondent. Because of a State Supreme Court Decision, there may be no exceptions to this rule. Furthermore, it does not matter if any additional evidence would benefit the respondent or the City. To state it clearly, if the evidence is not presented during the time the respondent is

in the hearing room, it doesn't exist. Of course, if the hearing is continued, all the evidence can be presented on the date of the continued hearing.

Reasonable Grounds/No Reasonable Notification and Storage

A. Reasonable Grounds Determinations

Reasonable Grounds is determined when the City demonstrates that the impounding officer had a reasonable belief that a vehicle was in violation of a statute which allowed for impoundment. In addition, the City must show that the officer complied with established impounding procedures and accurately completed the Vehicle Impound/Immobilization Form. If all those conditions are met, a ruling of Reasonable Grounds is appropriate.

Evidence of mitigation (such as proof of disabled vehicles, medical emergencies, broken odometers, etc.), may not be sufficient in and of itself to overcome the City's probable cause to impound.

B. No Reasonable Grounds Determinations

In making a "No Reasonable Grounds" determination, an examiner may usually do so for one of the reasons listed below, although this is not an exhaustive list. Common reasons for a finding of "No Reasonable Grounds" and a brief discussion of each reason is included. Again, each case must be based upon its own unique set of facts and circumstances.

Technical Error: Wrong Reason for Impound

No Reasonable Grounds may be determined if a vehicle was impounded for the wrong reason. The Post-Impound Vehicle Report has a box where the impounding traffic officer must list the Reason for Impound (CVC/storage authority.) The examiner must determine if the officer impounded the vehicle under the correct CVC section, and then whether the officer accurately noted the correct section in the Reason for Impound box. Note that vehicles are impounded for violations of CVC sections and not for violations of the Los Angeles Municipal Code.

Emergency Removal

No Reasonable Grounds may be determined if a vehicle was not in violation of any CVC section, but was impounded by the Department due to an emergency situation. If a vehicle is impounded for this reason, the impounding officer should always clearly state on the Post-Impound Vehicle Report that the sole purpose of impoundment was due to an emergency situation. These cases must receive immediate attention and must be expedited in every way possible. Consult the Office Manager for assistance in expediting these cases.

Permanent or Temporary Sign Issues Including: Sign Obscured; Inadequate Signage; No 24-Hour Advance Temporary Sign Posting

These sign issues involve vehicles which are impounded for parking in temporary or permanent tow away zones. Temporary signs must be posted at least 24-hours in advance of impoundment. For either temporary or permanent tow away zones, there must be at least one sign on the block which warns motorists of the restriction. In addition, Section 80.10 of the Los Angeles Municipal Code indicates that signage must be in place, "sufficiently legible and visible to be seen by an ordinary observant person." On the Post-Impound Vehicle Report, the impounding officer should note the distance that signs were posted in relation to the impounded vehicle (5' from rear, 60' in front, etc.). It is also the impounding officer's duty to note on the report that there were no sign restrictions posted but that a vehicle was still impounded for safety, emergency, or other reasons.

Technical Error: Incomplete Vehicle Impound Report and/or Illegible Impound Report

The following information on the Post-Impound Vehicle Report must be accurately completed: vehicle license plate or VIN number, impound date, approximate location and time of impound, reason for impound, and Notice of Sign Posting or Removal log number (for temporary tow cases). However, if the officer made an error in reversing letters or numbers in the log identification number, license plate or VIN number; the examiner must consider the totality of the evidence presented during the hearing and the testimony of the impounding officer. That is, the determination of Reasonable Grounds or No Reasonable Grounds should not be automatically based on "one technical error" unless the examiner

has balanced all evidence presented during the hearing. If in doubt, the examiner must discuss it with the Office Manager.

Technical Error: Illegible Handwriting; When An Officer Does Not Attend the Post Impound Hearing

When the Impound Report is illegible and all efforts to obtain a legible copy have failed and/or every effort has been made, to no avail, to try to get the officer to read the report to the hearing examiner over the phone (prior to the hearing) the decision should be No Reasonable Grounds due to a technical error.

Technical Error: Illegible Handwriting; Other Situations

This would result in a No Reasonable Grounds determination if the illegible handwriting led to a major error, such as impounding the wrong vehicle.

Notification Requirements and Storage Charges

Issues involving payment of storage fees are usually determined by the City's compliance with notification procedures and the respondent's timeliness in retrieving the vehicle from an OPG. The City is required to mail notice of the storage to the registered and legal owners within 48 hours, excluding holidays and weekends. This notice is mailed to the address which is on file with DMV. The examiner needs to determine if any City error resulted in the delay or prevention of this notice being mailed. The owner is responsible for ensuring that current registration and current address information is on file with DMV. Once notified of the storage, the respondent is responsible for retrieving the vehicle in a timely fashion.

If the current owner has moved and not made an address change with DMV then the notification will be sent to the last known address. For out-of-state vehicles, notification may be slowed because the notice will be sent to the Department of Justice (DOJ) in order to retrieve the last address on record with that state.

NOTE: CVC 22852 requires that notification be mailed to the registered owner within 48 hours of the impound, excluding holidays and weekends. If the respondent is irrelevant.

A finding of Reasonable Grounds usually results in the respondent being held responsible for paying all towing and storage fees. However, even when a determination of Reasonable Grounds is made, in some cases there may be evidence that notification was not sent in accordance with CVC 22852. In such cases, the examiner shall hold the respondent responsible for paying the first day's impound charges, but the examiner may waive or refund storage fees affected by the notification error.

An examiner may also find that "No Reasonable Grounds" existed to impound a vehicle, yet the examiner may determine that the respondent did not retrieve the vehicle in a timely manner. In such instances the examiner may waive or refund the first days impound and storage charges, but still hold the respondent responsible for paying excess storage fees.

If a vehicle is stored for more than 72 hours, the OPG may add lien sale processing fees to the total impound charges. The examiner should consult with the Office Manager prior to making a determination on whether to waive to refund lien processing fees.

A DOT policy has also been established which holds a vehicle owner responsible for paying storage fees that accumulate while either OPG, DOT or LAPD personnel attempt to locate the VIN number on the impounded vehicle. This usually applies to vehicles whose VIN numbers are missing, defaced, unreadable, or hidden.

Post Impound Hearing Dispositions

Reasonable Grounds

Summary: In order to improve the accuracy of Post Impound Decisions and Boot Decisions, the decision rendered will now be Reasonable Grounds instead of Probable Cause. This will result in a lower standard / burden of proof for these Decisions.

*For more details and further clarification, please see the Department Memo dated March 14, 2018, which is included within Section 9.

This chart describes the possible determinations an examiner may make during the course of a post impound hearing:

Disposition	First day Impound Fees Paid at OPG*	First day Impound fees Unpaid	Additional storage fees after first day Paid at OPG	Additional storage fees after first day Unpaid
Reasonable Grounds	No Refund of first day Impound fees	No Waiver of first day impound fees	1. No refund if notice requirements met or 2. Possible refund of some storage fees if notice was not sent per CVC 22852	1. No waiver if notice requirements met or 2. Possible waiver of some storage fees if notice was not sent per CVC 22852
No Reasonable Grounds	Refund of first day impound fees	Waiver of first day impound fees	Possible refund of some or all storage fees if notice was not sent per CVC 22852	Possible waiver to some or all storage fees if notice was not sent per CVC 22852

In most instances, as of January 2020:

The City of Los Angeles and the Los Angeles Police Commission regulate and set the towing and storage rates for the Official Police Garages. The towing and storage charges must be paid before the release of a vehicle.

Vehicles may be towed for various reasons by several different city agencies. The towing and storage rates are uniform throughout the City of Los Angeles.

If a vehicle is not redeemed on the same day that it was towed, additional daily storage charges will incur.

On January 1st, 2019, the OPG towing and storage rates were increased. In accordance with California Civil Code Section 1748.1(a), Official Police Garages offer a discount rate to all individuals paying for towing and storage fees by a means other than a credit card. The rate for paying by a means other than by credit card is discounted to encourage payment by cash, check, or other means not involving the use of a credit card and it is offered to all consumers.

Standard Vehicle Rates	Payment by Credit Card	Non-Credit Card Payment
for the first hour or fraction thereof.	$137.00	$134.00
for each additional half-hour or fraction thereof beyond the first hour	$68.00	$66.50

Upright Heavy Duty Vehicle	Payment by Credit Card	Non-Credit Card Payment
for the first hour or fraction thereof	$263.00	$257.50
for each additional half-hour or fraction thereof beyond the first hour	$131.50	$128.50
Per hour or fraction thereof for each additional person required	$58.50	$57.00
Specialized equipment required – heavy duty removal for the first hour or fraction thereof.	$396.00	$387.50
Hazardous or dangerous cargo – heavy duty removal.	$593.50	$580.50

Daily Storage Rates	Payment by Credit Card	Non-Credit Card Payment
Standard Vehicle	$42.50	$41.50
Trucks Over One Ton - Trucks, Boats and trailers Under 20'	$47.00	$46.00
Trucks Over One Ton - Trucks, Boats and trailers 20' to 40'	$60.00	$58.50
Trucks Over One Ton - Trucks, Boats and trailers over 40'	$74.50	$73.00
Motorcycles	$12.00	$11.50
Major Component Parts	$8.50	$8.50
Bulk Items per Square Foot	$0.50	$0.50

Miscellaneous Rates	Payment by Credit Card	Non-Credit Card Payment
Mileage Rate (per mile)	$7.50	$7.50
Removal of Stolen Component Parts	$77.00	$75.50
Removal of Bulk Items	$137.00	$134.00

City of L.A. Release fee. $115.00 for each vehicle released *

City Parking Tax: 10% city parking occupancy tax is collected on all storage fees **

Forms of Payment. Cash, Mastercard, Visa
ATM Bank Debit Card that allows withdrawls from checking accounts only

*** Fee is remitted to the City of Los Angeles on a quarterly basis**

**** Tax is remitted to the City of Los Angeles on a quarterly basis**

Lien Sale Processing Fees

All vehicles are subject to applicable California Civil Code Section 3074 lien sale processing fees.

Civil Code Section 3074: "The lienholder may charge a fee for lien-sale preparations not to exceed seventy dollars ($70) in the case of vehicle having a value determined to be four thousand dollars ($4,000) or less and not to exceed one hundred dollars ($100) in the case of a vehicle having a value determined to be greater than four thousand dollars ($4,000), from any person who redeems the vehicle prior to the disposal or is paid through a lien sale pursuant to this chapter. These charges may commence and become part of the possessory lien when the lienholder requests the names and addresses of all people having an interest in the vehicle from the Department of Motor Vehicles. Not more than 50 percent of the allowable fee may be charged until the lien-sale notifications are mailed to all interested parties and the lienholder or registration service agent has possession of the required lien processing documents. This charge shall not be made in the case of any vehicle redeemed prior to 72 hours from the initial storage."

The examiner will need to check with the OPG to determine the exact accumulated charges.

The following is a brief description of each possible disposition listed above. These dispositions are listed in no particular order of importance. Although common reasons for dispositions cases are listed, the examiner should remember that each case is decided based upon its own unique

set of facts, upon the evidence presented, and upon the hearing examiner's determination of the credibility of the evidence.

a. Reasonable Grounds: No Refund or waiver of any impound of storage charges

This disposition is made when the hearing examiner determines that the respondent is responsible for all impound and storage charges because the City has proven by a preponderance of the evidence all of the following:

1. The Impound/Immobilization Form that is filled-in by the impounding officer is complete. At a minimum, the following information on the Form must be accurately completed: vehicle license plate or VIN number, impound date, approximate location and time of impound, reason for impound, and Notice of Sign Posting or Removal log number (for temporary tow cases).
2. The vehicle identified on the Form was indeed the actual vehicle which was impounded.
3. The impounding officer had reasonable belief, or Reasonable Grounds, that the vehicle was in violation of the CVC section listed on the impound form that authorizes the impoundment of a vehicle.
4. The registered owner of the impounded vehicle was properly notified of the impound in accordance with CVC 22852 (notice mailed 48 hours of impound excluding weekends and holidays).

b. Reasonable Grounds: Respondent is responsible for impound charges, however, some of all of the storage charges paid to the OPG will be refunded.

NOTE: CVC 22852 requires that notification be mailed to the registered owner within 48 hours of the impound. If the respondent retrieves the vehicle prior to 48 hours of the impound, the notification issue is irrelevant.

1. The examiner determines that elements #A1-3 listed above are proven and therefore Reasonable Grounds for impounding the vehicle is established. However, a Department error in the notification process (outlined in CVC 22852) resulted in excess storage fees being charged.

   Department errors may include:

   a. Traffic officer lists the correct vehicle license number on the Vehicle Impound Report, but relays incorrect numbers to DOT Communications Division when calling or radioing in notification of the impound. This will result in a notification delay to the vehicle owner. It may result in the refund or waiver of some of the storage charges. The examiner should discuss the number of storage charges to be waived or refunded with the Office Manager prior to making a final determination.

   b. DOT Communications Division forwards correct impound information to VIPU, but VIPU personnel enter the wrong license or VIN number into TIMS. This will also cause a delay. Again, the examiner should discuss the number of days to be waived or refunded with the Office Manager.

2. The respondent must provide a receipt from the OPG to prove that fees were paid.

   c. No Reasonable Grounds, Full Refund: Respondent will receive a full refund of all impound and storage charges paid to the OPG.

In this disposition, the examiner determines that the City did not have Reasonable Grounds to impound the vehicle, **and** the respondent retrieved the vehicle from the OPG in a timely manner. See the "No Reasonable Grounds Reason" section of this manual for examples of situations where No Reasonable Grounds is determined.

   d. No Reasonable Grounds, Partial Refund: Respondent will receive a full refund for impound charges, but only a partial refund of storage charges paid to the OPG.

In this disposition, the examiner determines that the city did not have Reasonable Grounds to impound the vehicle, **but** the examiner determines that the respondent delayed in retrieving the vehicle from the OPG. In this case, the examiner finds that the City will only refund impound and storage charges up to a certain date. Storage charges incurred after that date will not be refunded.

e. No Reasonable Grounds, Full Waiver; Respondent will receive a full waiver of all impound and storage charges paid to the OPG.

In this disposition, the examiner determines that the City did not have Reasonable Grounds to impound the vehicle, **and** all impound and storage charges will be waived provided that the respondent retrieves the vehicle from the OPG by a date and time established by the examiner (normally 5:00 p.m. on the day of the hearing). The examiner must immediately give the respondent a completed Full Waiver form and make it clear that any storage charges incurred after the date on the Full Waiver form will be the respondent's responsibility.

f. No Reasonable Grounds, Partial Waiver: Respondent will receive a full waiver of impound charges, but only a partial waiver of storage charges.

In this disposition, the examiner determines that the City did not have Reasonable Grounds to impound the vehicle, **but** the examiner determines that only some of the storage charges that have been incurred will be waived by the City. The respondent will be responsible for paying the remaining balance when the vehicle is retrieved at the OPG. The examiner must immediately give the respondent a Partial Waiver form and make it clear that any storage charges incurred after the date on the Partial Waiver form will be the respondent's responsibility.

Waiver and Refund Decisions - Costs Attributed to OPG's (Boots and Impounds Only)

Summary: Certain Impound Decisions which involve waivers or refunds, the costs of those waivers or refunds will be absorbed by LADOT and the corresponding OPG will not be billed. OPG's only share in the costs when an Impound Decision finds mitigating circumstances or the Decision finds No Reasonable Grounds because of an Officer's error in the initial impound observations.

*For more details and further clarification, please see the corresponding Department Memo, which is included within Section 9.

Hearing Procedures

Prior to the Hearing

An individual has 10 days from the date of impound to request a post impound hearing. Once this request is made, the hearing must be held within 48 hours if the vehicle is still in the tow yard unless the time limit is waived, (see page 5 note in #4). The strict time constraint that are imposed require a great deal of cooperation between the Parking Enforcement Area Office (PEAO) which impounded the vehicle, Vehicle Impound Processing Unit (VIPU), which is the unit responsible for record keeping and processing, and the Adjudication Office administrative staff who assemble the case files, arrange traffic officer appearances, and schedule the hearing dates and times.

1. The respondent initially contacts the PEAO which impounded the vehicle to request a hearing. The PEAO clerical staff complete a Hearing Request Form based on the information given by the respondent and information relevant for hearing scheduling and case documentation. This form is faxed to VIPU and the appropriate Adjudication Hearing Office. **Cases where the vehicle is still in the impound yard require immediate attention from Adjudication Hearing Office staff and PEAO.**
2. PEAO and/or VIPU staff assemble all documents associated with the impound. This should consist of the Vehicle Impound report (DT 5010), and the abandoned Vehicle Impound Order (control sheet), returned Vehicle Impound notices and envelopes (DT 5009) and any other pertinent information. PEAO staff will fax the entire package to the Adjudication Hearing Office.
3. Once the Adjudication Office clerical staff receives all information, they assemble the file and contact the respondent to arrange a hearing date, time and location.

Additionally, they make arrangements for the impounding traffic officer to attend the hearing. The clerical staff requests copies of the Notice of Sign Posting or Removal (for temporary tow cases) from the sign shop or from the computer, **obtains notification information from VIPU**, collects any other required information, and ensures that all faxes and copies are readable. **Office managers are responsible to check post impound hearing packages at least two days prior to the hearing date to verify that the case package is complete and signed traffic officer confirmations have been received. Office managers must also ensure that VIPU has provided notification information for cases involving extended storage issues. Once it is confirmed by the office manager that the Post-Impound Hearing Packages are complete, he/she must initial and date the "Post-Impound Hearing Activity Log".**

B. The Day of the Hearing (Appendix Sections 3 and 5)

4. The adjudication clerical staff distribute each case that is scheduled for that day according to each office's workload. The examiner should review the case file prior to conducting the hearing. **If the examiner discovers that any documents are unreadable or missing, including storage and notification information, the examiner must immediately notify the office manager or the clerical staff member who assigned the file, so that the missing documents may be located and included into the file.**

Files should include legible copies of the following:

1. Vehicle Impound/Immobilization Report (Form DT 5010). All files must contain this form
2. Temporary Parking Control Order (for temporary tow away cases--CVC 22561(I) and CVC22651(m)).
3. Abandoned Vehicle Impound Order Form, which lists the date, location and odometer reading of a vehicle when it is "marked" and impounded (for over 72-hour cases-CVC 22561(K)).
4. Traffic Officer Notice to Attend Impound Hearing fax copy (signed by PEAO supervisor). This is confirmation that the impounding traffic officer's presence at the hearing was requested by the respondent and the traffic officer has received notification to attend.

Again, office managers are responsible to verify that the signed confirmations are received at least two days prior to the hearing date.

5. **Storage notification information from VIPU.**

When the respondent arrives, the clerk has the person complete a Post Impound Hearing Statement of Rights form, makes a copy of respondents driver's license or picture identification card, makes a copy of the person's payment receipts to the OPG (if the charges have been paid), and informs the hearing examiner that the respondent is present. The clerk gives copies of all of the above documents to the examiner and the examiner adds these documents to the file.

The attending Traffic officer is called by the examiner, (The Traffic Officer usually waits in the conference room until called by the examiner) and then calls in the respondent from the lobby. Before the respondent enters the hearing room, the security guard performs a wand screening and must check any bags, briefcases, purses, etc., that the respondent brings into the adjudication office.

Beginning the Hearing

Note: The examiner must turn on the recorder as soon as the respondent enters the hearing room and leave it on until the respondent is escorted out of the office. Examiners must record Post-Impound hearings separately from the in-person file used for citation hearings. The Impound file in the recorder is to be used for all Post Impound Hearings.

1. Once the examiner escorts the respondent and impounding traffic officer into the hearing room, the examiner states his/her name and informs the respondent that he/she is a City appointed hearing examiner. The examiner notifies the respondent that the hearing is being audio recorded, and if applicable, videotaped. The examiner will then introduce the impound traffic officer to the respondent.
2. After the introduction, the hearing examiner verifies the respondent's identity and purpose for attending the hearing if the respondent is not the legal or registered owner of the impound vehicle.

A. If the driver's license is produced, ask if the address listed on the license is the person's current address

3. If an agent appears on behalf of the registered owner, the examiner may conduct the hearing. (Verification of agency should be by notarized document.) However, unless specifically authorized in writing by the examiner, only the registered owner or legal owner may secure release of the vehicle from the O.P.G.
4. In some cases, an interpreter will be necessary to assist in conducting the hearing. City personnel are not to provide interpretation service unless staff is certified by the city and currently available at the time of the scheduled hearing. Non-English-speaking respondents are responsible for providing their own interpreters for the hearings.
5. The hearing examiner states the following information for the record:

   "Today's date is [Mo/day/yr.]. It is approximately [time of day]. This is a post impound hearing to determine whether or not the City of Los Angeles had reasonable grounds to impound vehicle [license # or vin #]. This vehicle was impounded on [date] for [state the CVC section, and a brief description of the section, that caused the impound]. Appearing in this matter is [name of respondent] whose address is [current address]".

6. The hearing examiner explains the scope of the hearing and what exactly constitutes Reasonable Grounds. The examiner also informs the respondent that if an underlying citation was issued at the time of the impound, the merits of the citation will normally **not** be evaluated at this hearing. The citation is normally contested through the regular hearing process. (The exception to this would be that if the examiner determines there is an **obvious** reason to dismiss the citation, the examiner has the discretion to dismiss the citation as a [part of the examiner's final decision).
7. For the record, the examiner reads the information that is listed on the Impound/immobilization report. The information on this form is the basis for the

impound. The examiner also describes and shares with the respondent any other pertinent documentation that is contained in the file. The examiner then allows the attending traffic officer to describe the circumstances of the impound.

8. The hearing examiner asks the traffic officer to explain the situation which led to the impound of the respondent's vehicle.
9. The hearing examiner then gives the respondent the opportunity to present his/her case. The respondent's case may consist of some or all of the following: Questions or cross-examine the impounding traffic officer; present oral or written testimony; submit photos, diagrams or other supporting documents; present oral or written testimony from witnesses. All documentation submitted will be either photocopied and retained by the hearing examiner or if the examiner deems it necessary, the originals will be retained. Some documents might be scanned into the files. **It is again stressed that it is imperative that absolutely every piece of evidence considered during an in-person post impound hearing must be considered by the hearing examiner in the presence of the respondent.**

Concluding the Hearing

After all testimony and evidence is presented, the hearing examiner concludes the hearing depending on the following three scenarios:

1. The respondent has **not** retrieved the vehicle from the OPG and is attempting to get a full refund or partial waiver of fees that are due to the OPG (Urgent Post Impound Hearing).
2. The respondent has retrieved the vehicle from the O.P.G. prior to the hearing and is attempting to get a full or partial refund of fees that were already paid to the OPG. (Non-Urgent Post Impound Hearing).

Urgent Post Impound Hearing

If the respondent has not retrieved the vehicle from the O.P.G., the examiner must render an immediate decision.

1. If the examiner makes a "Reasonable Grounds" finding and is not granting a full or partial waiver of impound or storage fees, the examiner should inform the respondent of the following:
    a. Verbally inform the respondent that no impound or storage fees will be waived. A written decision will be mailed to the respondent's address within 10 days.
    b. Explain the appeal process.
    c. Additionally, daily storage fees will accrue until all impound and storage fees are paid to the O.P.G.

2. If the examiner grants a full waiver or partial waiver of impound or storage fees, the examiner must:
    a. Complete a "full waiver of unpaid charges" form if all charges are waived. Complete a "partial waiver of unpaid charges" form if partial is waived. The form needs to be signed by the examiner and the office manager. Refer to the computer instructions section of this manual for information on accessing, completing, and printing waiver forms.
    b. Explain to the respondent exactly what the impound and storage fees are to be waived. Advise the respondent to immediately go to the OPG to retrieve the vehicle, so as not to incur additional storage fees that are not covered by the waiver form. In addition, fax a copy of the waiver form to the OPG.
    c. The examiner may either write the actual decision before the respondent leaves the hearing office or mail the decision to the respondent's address. The

respondent does not need to take the Notice of Decision to the OPG. to retrieve the vehicle.

Non-Urgent Post Impound Hearing

If the Respondent has paid the OPG and retrieved the vehicle, the examiner should not inform the respondent of a decision. Instead, the examiner should provide the respondent with the following information:

1. Explain to the Respondent that the decision will be received by mail in approximately three to fourteen days from the date of the hearing. The decision letter will be mailed to the address verified at the beginning of the hearing.
2. The Hearing Examiner should conclude the hearing explaining: The decision letter will explain either Reasonable Grounds or No Reasonable Grounds. If the decision is Reasonable Grounds and the Respondent does not agree with the Hearing Examiner's decision, they can contest the results by filing a claim for damages through the City Clerk's Office. Explain that the instructions will appear at the bottom of the decision letter.
3. If the decision is No Reasonable Grounds, a refund of the towing and storage fees will be mailed to the Respondent in approximately thirty (30) days from the mailing date of the decision letter.

Completing the Notice of Decision, Waiver Form, and Refund Form

Refer to the Computer Instructions section within the appendix of this manual for a detailed description of how to access, input and print Post Impound Hearing Notices of Decision, Waiver forms and Refund forms.

Examiners before submitting decisions to their supervisors must make sure that all information on their decisions is complete and accurate, i.e. names, addresses, license plates, etc. Further, all decisions must be proofread before printing, i.e. spelling and grammatical errors. Finally, all numerical totals must be complete and accurate.

Once all forms are printed, make one file copy of the Notice of Decision. Any case involving a refund or waiver form is given to the Office Manager for review and authorization signature. After the case has been reviewed and approved by the office manager, the clerical staff will mail the original Notice of Decision to the respondent.

"No Shows"

1. If a respondent fails to appear for the hearing on the scheduled date and time (30 minutes past the scheduled time), the respondent is considered a "no show". The examiner shall hand write a note to the file stating that the respondent failed to appear, and then return the case to the receptionist at the end of the examiner's working day.
2. On the next business day, a clerical staff member generates and mails a "Post Impound Contesting Ended" form letter to each respondent who fails to appear.
3. The Office Manager has the discretion to reschedule a "no show" respondent for a new hearing date for good cause.

Hearing Requests That Are Not Scheduled

If a vehicle owner initially requests a hearing but then does not respond to repeated attempts by the Adjudication Division staff to schedule a hearing date, a "Post Impound Pending Scheduling" letter is generated, signed by the office manager, and mailed to the individual. The letter informs the person that he or she must contact the adjudication office by a certain date to arrange a hearing. If there is no contact by the specified date, the matter is closed and the case is filed.

What can I do if I do not agree with the Parking Citation Hearing decision?

Once a decision is rendered, you CANNOT request another Administrative Hearing of the same citation. You have the right to appeal a final decision within 30 calendar days from the mailing of the Hearing Examiner's Decision. Instructions on how to proceed can be located toward the end of the decision document.

I believe the vehicle related bills were issued prior to me owning the vehicle or license plate. What should I do to get this resolved?

You are required to make full payment before initiating a dispute and the registered owner will be given a 10-day grace period to request a Hearing on the booting process.

Do I need to pay my citation in order to contest?

No, for an initial review, you are not required to pay your citation in order to contest. However, per section 40204 of the California Vehicle Code, if you pay your citation without contesting at the same time, the citation will be considered closed and you will not be able to contest your citation.

What if I am homeless and cannot afford to pay my parking citations?

The City of Los Angeles Community Assistance Parking Program (CAPP) is a program that has been created to assist homeless individuals with open or unpaid parking citations, by allowing qualifying citizens to pay in the form of community service. For more information please CALL (213) 978-4400 or EMAIL: LADOT.CAPP@LACITY.ORG

Impounds

If a citation was issued when a vehicle was impounded, can a ruling on the citation be rendered in an Impound decision?

If the Respondent has already started the appeal process with Initial Review, then that appeal process will be allowed to proceed. If, however, the Respondent has not yet appealed the

citation and there are serious errors which would invalidate the City's authority to have impounded the vehicle, a citation may also be dismissed at the same time a decision on the validity of the impound is rendered.

How long do I have to request an Impound hearing after I have retrieved the vehicle from the OPG?

Once the notice of an impounded vehicle has been mailed, you have 10 days from the date the notice was sent to request a hearing.

If my vehicle has been impounded by Parking Enforcement, who do I contact to retrieve my vehicle?

You may contact 311 or visit the City's vehicle locator to determine the OPG lot where your vehicle is being stored.

What is the process for contesting an impound?

Contact the Parking Violations Bureau to initiate the appeal of an impound and to schedule a hearing.

Do I need to pay for the impound and corresponding citation prior to being granted a hearing?

Typically, a Respondent will have already obtained a release of the vehicle from the OPG prior to an impound hearing. It is not necessary for a Respondent to pay the corresponding citation in order to conduct the hearing. In the event a Respondent cannot afford the impound fees to obtain a vehicle release and wishes to contest the impound, a Respondent may request an Urgent Impound hearing without paying the impound fees. An oral decision will then be rendered in the hearing.

What if I don't agree with the impound decision that I receive?

You may appeal an impound decision by filing a claim with the City Clerk's office. Brief instructions on how to appeal will be included at the end of the decision.

Boots & Tows

The registered owner passed away. What are the new owner's options?

You are required to make full payment before initiating a dispute and the registered owner will be given a 10-day grace period to request a Hearing on the booting process.

I already made payment for the citations prior to booting. What can I do to dispute the booting instance?

If you paid for your parking citation at the DMV, you may provide your receipt to the Help Center by emailing forms@bootreleaseline.com. You would still be required to pay for any fees and any other citations not included on your receipt associated with this booting instance. If you would like to initiate a dispute, the registered owner will be given a 10-day grace period to request a Hearing on the booting process.

Does this city place a registration hold for outstanding boot eligible bills?

Yes.

What are my disputing options after my vehicle has been immobilized during and after the city's business hours?

You are required to make full payment before initiating a dispute and the registered owner will be given a 10-day grace period to request a Hearing on the booting process.

Can the city boot a vehicle if it's parked on private property or in a privately owned parking lot?