



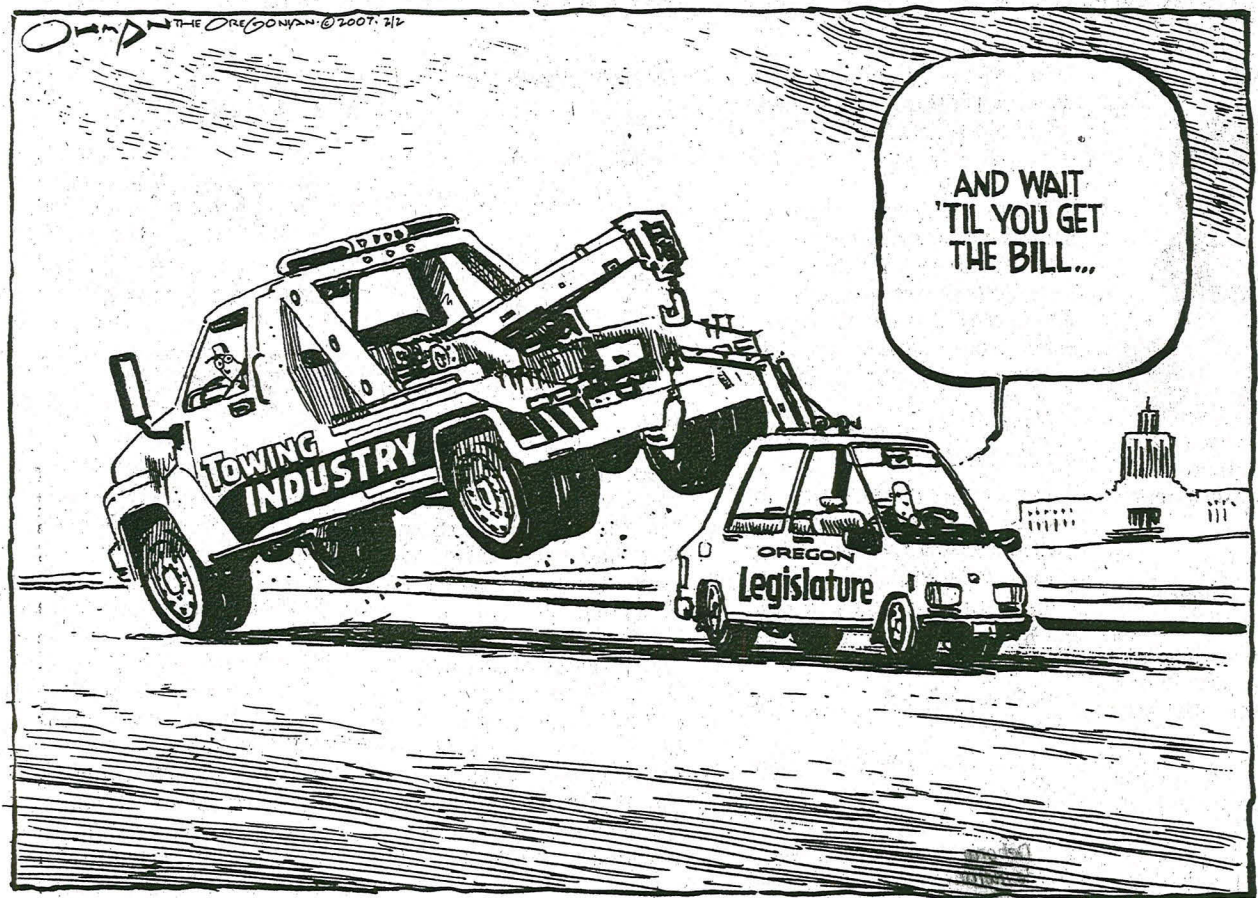
Sean Cruz  
12/19/12

185835

THE OREGONIAN • FRIDAY, FEBRUARY 2, 2007

# COMMENTAR

## LETTERS TO THE EDITOR, COLUM



# Residents add up the tows

*City says Northeast complex isn't alone in tow truck trauma*

By JACOB QUINN SANDERS  
The Tribune

Even the first time Isgow Mohamed's car was towed from in front of his apartment complex, he wasn't surprised. At the Plaza de Cedros apartments, it happens to everyone.

Tucked off Northeast Fremont Street near 102nd Avenue, the complex is nearly invisible from the road. Yet Mohamed's van has been towed three times in the year he has lived there, each time despite the parking permit he displays. Each time he paid Retriever Towing, which has a contract with the complex's owners, a minimum \$177 fee.

One former neighbor was towed four times in one day — while trying to move out of the complex of six apartments. And a neighbor whose house abuts the parking lot — and whose parking space is part of the lot — saw his and his son's cars towed a total of three times.

"It's like a Third World country with no rules," Mohamed, 49, said.

Those at Plaza de Cedros are only one small group of Portlanders run over by tow truck drivers whom city officials call predators more interested in chasing a buck than following the law.

"They're like pirates," said Gordon Johnston, a citizen's advocate on the staff of city Commissioner Sam Adams who has been researching predatory towing practices since January. "They're out marauding on the seas of life."

But the laws themselves also are part of the problem, officials say, leaving unresolved issues that could protect Portlanders from having to pay hundreds of dollars to pick up their cars from a distant storage lot.

Each of the residents of Plaza de Cedros said the tow truck drivers gave them no reason for their cars being towed, telling them only what it would cost them — in cash — to have them unhook the cars.



TRIBUNE FILE PHOTO: KYLE GREEN

Retriever Towing is one of the largest of the 19 towing companies licensed to operate in Portland. As a result of what city officials see as predatory practices in the industry, there's a move in the state Legislature to increase regulations on towing companies.

## Child on board

Luis Interian, 36, who has lived at Plaza de Cedros for a year, prevailed on a tow truck driver to unhook his car for free once, albeit dramatically.

"My little girl was inside," he said in Spanish. "The driver told me he was going to tow my car and I said, OK, but my daughter's in there. He said again he was going to tow the car, and I told him, OK, but he had to take my daughter, too. He got mad. And then he let the car go and left."

Pietro Ferrari, executive director of Hacienda Community Development Corp., which owns Plaza de Cedros, deflected responsibility for the tows. Ferrari said Hacienda's former property management firm, fired in August, allowed the towing company free, random access to the parking lot and let the towing company use its discretion in whether it towed a car.

Ferrari said he directed the new management firm, Income Property Management, to amend the towing contract and allow tow trucks into the lot only after a call from the firm.

"There were some problems, yes," Ferrari said of the previous arrangement. "But we believe we are addressing them and that further inquiries to the management companies could resolve this issue for our residents."

Representatives of the former managers, Quantum Management Services, did not return phone calls seeking comment.

Nor did anyone from Income Property Management.

The Tribune made three calls over three days to Retriever Towing for comment. None of the calls was returned.

## Where does the money go?

Residents of the complex said that there has been little change in the situation despite the change in managers and that tow truck drivers will take the fees in cash, leading them to question whether it's a bribe.

"I don't know that the money goes to the company," Mohamed said. "I'm not sure that it does, you know? How do I know?"

Lucky for residents, the neighbor who shares their parking lot and their plight is Sean Cruz, an aide to state Sen. Avel Gordly, D-Portland.

Cruz's van and his son's car were towed March 19. Retriever gave him a bill for \$366, which it later canceled in writing because of its error. Four days later, Retriever towed his son's car again.

"Tell me this is not extortion," Cruz said, walking around the lot. "Tell me this is not just an excuse to harm people who cannot fight back."

Immigrants make up most of the tenants — Mohamed is from Somalia, Interian from Mexico — in what Cruz described as "low-income housing, but it's nice here."

He took their stories to Gordly and to Johnston at City Hall.

Johnston said the city cannot regulate the Plaza de Cedros lot because it contains five spaces —

fewer than the 10 needed to give the city authority. And the city also cannot impose ordinances more restrictive than state law, which allows towing companies with private contracts to tow at will even in the absence of a landlord's complaint or actual parking violation.

Among the things Johnson is exploring is whether access to a parking space, like the apartment it belongs to, is governed by landlord-tenant laws — essentially, whether a landlord or towing company trespasses by entering a space without 24 hours' written notice. And he is considering a requirement that all tows be preceded by a phone call from a complaining landlord rather than being governed by the tow truck driver's discretion.

## An easy target

Cruz and Johnston believe the tow companies choose to tow more in low-income neighborhoods because people there are less likely to sue and have a more fundamental need for their cars — no car, no paycheck, or in some cases no job — than in more affluent areas.

"The target is always the apartment complexes in Southeast Portland and east Portland that cater to the poor," Johnston said.

The first effort at changes must come from the state Legislature where Cruz and Gordly are writing a bill increasing regulations on towing companies.

"Until Salem makes its move, our people can't get with their legal people to figure this out," Johnston said.

It will take a lot to change the impressions cut in to Plaza de Cedros residents. There is too much recent history.

Last week, Retriever towed Jose Interian's car. Eighteen years old and the son of Luis Interian, he couldn't understand, especially when he found out someone called the towing company to report a different car — in a different parking lot. He found that out when a Retriever driver brought his car back about 45 minutes later.

"At least they didn't charge me this time," he said. "That would have really been a mess."

**§ 98.854<sup>1</sup>****Prohibitions placed on tower**

- exceptions
- conditions allowing towing

**(1) A tower may not:**

(a) Except as provided in subsection (3) of this section, tow a motor vehicle from a parking facility without first contacting the owner of the facility or the owners agent at the time of the tow.

(b) Tow a motor vehicle from a parking facility if the parking facility owner or owners agent is an employee of a tower.

(c) Tow a motor vehicle without providing to the owner or operator of the motor vehicle the information required under ORS 98.856 (Conditions requiring release of vehicle) in the manner required under ORS 98.856 (Conditions requiring release of vehicle).

(d) Charge more than a price disclosed under ORS 98.856(Conditions requiring release of vehicle).

(e) Solicit towing business at, or within 1,000 feet of, the site of a motor vehicle accident, unless the tower tows the motor vehicle pursuant to a prenegotiated payment agreement between the tower and a motor vehicle road service company.

(f) Except as provided in subsection (2) of this section, park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business.

(g) Provide consideration to obtain the privilege of towing motor vehicles from a parking facility. For the purposes of this paragraph, the provision of:

(A) Signs by a tower under ORS 98.862 (Exceptions to requirements of ORS 98.856) does not constitute consideration.

(B) Goods or services by a tower below fair market value constitutes consideration.

(h) Require, as a condition of towing a motor vehicle or releasing a motor vehicle or personal property in the motor vehicle, that the owner or operator of the motor vehicle agree not to dispute:

(A) The reason for the tow;

(B) The validity or amount of charges; **or**

(C) The responsibility of the tower for the condition of the motor vehicle or personal property in the motor vehicle.

(i) Hold a towed motor vehicle for more than 24 hours without:

(A) Taking an inventory of all personal property in the motor vehicle that is visible from the exterior of the motor vehicle; **and**

(B) Holding the personal property in the motor vehicle in a secure manner.

(j) Accept cash as a method of payment for towing services unless the tower provides exact change not later than the end of the business day following receipt of payment.

(2) A tower may park a tow vehicle within 1,000 feet of a parking facility for the purpose of monitoring the parking facility for towing business if the tower provides notice of the hours during which monitoring occurs on signs that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility.

(3) A tower may tow a motor vehicle if the motor vehicle:

(a) Blocks or prevents access by emergency vehicles;

(b) Blocks or prevents entry to the premises;

(c) Blocks a parked motor vehicle;

(d) Violates a prominently posted parking prohibition; **or**

(e) Parks without permission in a parking facility used for residents of an apartment and:

(A) There are more residential units than there are parking spaces;

(B) The landlord has issued parking tags or other devices that identify vehicles that are authorized to be parked on the premises; **and**

(C)There are signs posted that are clearly readable by an operator of a motor vehicle in each parking stall or at each entrance to the parking facility prohibiting or restricting public parking on the parking facility. [2007 c.538 §3; 2009 c.622 §2]

**§ 98.856<sup>1</sup>****Conditions requiring release of vehicle****• • tower responsibility of disclosure to owner or operator of vehicle**

(1) If the owner or operator of the motor vehicle is present at the time of the tow, the tower shall release the motor vehicle at no charge unless the hookup is complete. If the hookup is complete, the tower shall release the motor vehicle and may charge the owner or operator of the motor vehicle a fee that does not exceed the charge to hook up for that type of tow as listed in a written statement described in subsection (2)(a) of this section.

(2) A tower shall disclose to the owner or operator of a motor vehicle in a conspicuous written statement of at least 10-point boldfaced type:

(a) The prices the tower charges for goods and services;

(b) The location where the tower will:

(A) Store the motor vehicle and personal property in the motor vehicle; or

(B) Tow the motor vehicle, if the tower is towing the motor vehicle to a location other than a location under the control of the tower;

(c) The telephone number and any other means of contacting the tower, and the hours of availability at that telephone number and at the other means of contacting the tower;

(d) The methods of payment that the tower accepts; and

(e) That, if the owner or operator of the motor vehicle pays for the tow with cash, the tower will provide, in person or by mail, exact change not later than the end of the business day following receipt of payment.

(3) If the owner or operator is present at the time of the tow, the tower shall provide the information required under subsection (2) of this section to the owner or operator of the motor vehicle before towing the motor vehicle.

(4) If the owner or operator of the motor vehicle is not present at the time of the tow, the tower shall provide the information required under subsection (2) of this section to the

owner or person in lawful possession of the motor vehicle prior to the time the owner or person in lawful possession of the motor vehicle redeems the motor vehicle.

**(5)(a)** As used in this subsection, business day means Monday through Friday, excluding legal holidays.

**(b)** If the owner or operator of the motor vehicle is not present at the time of the tow:

**(A)** Within five business days from the date of the tow, the tower shall request the name and address of the owner of the motor vehicle from the state motor vehicle agency for the state in which the motor vehicle is registered.

**(B)** The tower shall provide the information required under subsection (2) of this section to the owner of the motor vehicle by mail by the end of the first business day following receipt of the information from the state motor vehicle agency.

**(C)** If the owner of the motor vehicle or a person in lawful possession of the motor vehicle redeems the motor vehicle or contacts the tower prior to five business days after the tow, the tower is not required to contact the state motor vehicle agency.

**(6)** If the owner or operator of the motor vehicle is not present at the time of the tow but the owner or operator of the motor vehicle requested the tow and arranged to pay the tower directly, the tower may obtain the name and address of the owner of the motor vehicle from the owner or operator of the motor vehicle and may provide the information required under subsection (2) of this section:

**(a)** Within five business days after the tow; **or**

**(b)** With a copy of the invoice for the tow or upon receipt of payment, whichever first occurs. [2007 c.538 §4; 2009 c.622 §3]



## § 98.850<sup>1</sup>

### Legislative findings and declaration

(1)The Legislative Assembly finds that:

(a)49 U.S.C. 14501(c)(1) limits the authority of the state and political subdivisions of the state to enact or enforce laws or ordinances related to price, route or service of motor carriers with respect to the transportation of property.

(b)49 U.S.C. 14501(c)(2)(A) exempts, from the limits described in paragraph (a) of this subsection, safety regulations with respect to motor vehicles.

(c)49 U.S.C. 14501(c)(2)(C) exempts, from the limits described in paragraph (a) of this subsection, laws or ordinances relating to the price of for-hire motor vehicle transportation by a tow truck if the transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle.

(2)The Legislative Assembly declares that:

(a)Statutes that assist members of the public in avoiding involuntary loss of use of motor vehicles and in expediting recovery of motor vehicles and the personal property in the motor vehicles promote the safety and welfare of members of the public.

(b)ORS [98.810 \(Unauthorized parking of vehicle on proscribed property prohibited\)](#) to [98.818 \(Preference of lien\)](#) do not preempt any authority that a local government, as defined in ORS [174.116 \(Local government and local service district defined\)](#), may have to regulate the price of for-hire motor vehicle transportation by a tow vehicle if the transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle. [2007 c.538 §1]