



MID-COUNTY CITIZENS ADVISORY BOARD

Isiah Leggett
County Executive

Ana L. van Balen
Director

May 29, 2014

Dear Council President Rice & County Executive Leggett :

Recently, members of the mid-County community raised with the Mid County Citizen Advocacy Board (MCCAB) questions about predatory towing. While there are many facets to this issue, including the concerns of consumers, business owners, and towing companies, the primary issues at this time appear to be regulatory. Currently, county regulations are impacted by Federal preemption and State law, leaving Montgomery County restricted in its efforts to equitably protect all interests.

In the course of our research, MCCAB learned that through H.R. 4131, Representative Chris Van Hollen and Representative Jim Moran are currently working to remove the Federal "preemption" of state regulation to allow them to regulate tow truck operations performed without the prior consent or authorization of the owner or operator of the towed motor vehicle. Of primary concern to Montgomery County has been the need to hold local property owners primarily responsible for the harm to consumers as victims of "predatory" towing practices, even if they are primarily perpetrated by towing companies. Both Federal and State law prevent the County Council and County regulators from working to balance the needs of consumers and property owners when it comes to "trespass towing." State laws as they apply to Montgomery County must be addressed, but our initial concern is affecting change in Federal law. To this end, members of MCCAB urge you to communicate with Federal lawmakers and support efforts to repeal Federal law that preempts state and local county regulation of towing practices.

Aside from legislative issues, our primary concerns relate to small, older parking lots such as the one on Georgia Avenue, between University and Reddie, which is anchored by Dunkin Donuts. This is the lot specifically mentioned in community concerns raised with MCCAB. Lots such as this one pose difficulty for consumers because they are not owned by one entity and therefore do not provide parking for all of the stores in the small strip mall. Each store owner "owns" one or more parking spaces adjacent to the storefront. Property owners often feel compelled to restrict use of their privately owned spaces to the time a customer is specifically using their store or service. If a customer leaves the lot in question or, more reasonably, uses the store or services of an adjacent business, property owners are free to and sometimes feel compelled to allow towing companies to remove the vehicles of the customers in question. This is the issue that is of primary concern to MCCAB at this time.

In addition to the aforementioned repeal of Federal legislation, MCCAB would like to see:

- Changes to County regulation and signage so that individual parking spaces are more clearly identified as they relate to individual businesses, thereby reducing potential confusion for consumers who may wish to patronize multiple businesses in the same strip mall.
- Consideration of County regulation that mandates a minimum time limit before towing once a business owner perceives that a customer has “walked away” from a parked car, especially when “walking” to an adjacent store.
- Until such time as the legal environment changes and County regulation can be changed, increased capability of the Office of Consumer Protection to enforce the existing requirement that property owners authorize towing companies to remove vehicles.
- Enhanced capability of the police department to record details, and subsequently produce usable reports, relating to types of towing, enhancing the ability of the Office of Consumer Protection to enforce towing regulations.
- Assistance in making consumers aware of the threats to perceived misuse of parking in specific retail areas. Assistance in raising awareness of the self-limiting effects of predatory towing for business owners. An investment in the development of resources which will assist consumers in making appropriate parking choices.

Thank you for considering this issue. It is important to residents, visitors, and business owners of Mid County, and of Wheaton in particular. Thank you for reaching out to Federal Lawmakers and encouraging them to repeal existing legislation that interferes with County ability to regulate local towing practices.

Sincerely,



Kieran McHargue, Chair

CC: Congressman Van Hollen
Congressman Jim Moran