

APPENDIX A

Cause No. 16-TOW03-0097

IN RE: REMOVAL AND STORAGE OF MOTOR
VEHICLE

IN THE JUSTICE COURT OF GALVESTON
COUNTY, TEXAS PRECINCT 3

FINDINGS OF FACT AND CONCLUSIONS OF
LAW

On the 8th day of November, 2016, the above styled and numbered cause came on to be heard. Applicant, ZSUZSANNA ADAM appeared in person for herself and spouse, ZSOLT PETKO. Defendant CARELTON COURTYARD APARTMENTS, appeared by its authorized representative and attorney, ASHLEY JOYNER. KEN'S TOWING appeared by its authorized representative, KENNETH FERGUSON. All parties announced ready and the witnesses were sworn. Based upon the testimony, evidence and arguments, the Court made the following findings of fact and conclusions of law:

ZSUZASANNA ADAM, hereinafter referred to as Applicant, testified that she and her husband were the owners of the vehicle that was towed on October 12, 2016 from Carelton Courtyard Apartments at 210 Market Street, Galveston, Texas. Mrs. Adam testified that the vehicle was parked in a spot that is used by the tenants and that where it was parked

was not blocking the driveway as is indicated on the towing receipt. Mrs. Adam provided the Court with a copy of the written lease and the court read out loud the provision regarding parking on the premises.

The manager for Carelton Courtyard Apartments, CRYSTAL CAMPBELL, testified that they have a standing contract with Ken's Towing where the tow truck driver's may go through the parking areas and if an illegally parked vehicle is seen, management is contacted to authorized the towing of the vehicle. Ms. Campbell testified that on this occasion, she was contacted and authorized the tow of Applicant's vehicle. She testified that the location of the vehicle interfered with access to the dumpster which is emptied every Monday, Wednesday and Friday at 6:00 a.m.

Kenneth Ferguson, owner of Ken's Towing, appeared on behalf of his company.

ASHLEY N. JOYNER testified as to her attorneys fees in the amount of \$475.00.

Applicants challenge the probable cause to have their vehicle towed.

Pursuant to Art. 2308.458(c), Texas Occupations Code, the issues are:

1. Whether probable cause existed for the removal and placement of the vehicle;

2. Whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized by the political subdivision under Section 2308.201 or 2308.202;

3. Whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.203; or

4. Whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.0575.

Pursuant to Section 2308.458(e)(1), the court may award court costs and attorneys fees to the prevailing party.

The Court finds as follows:

1. The property in issue is private property.

2. Applicant's vehicle was towed under the authorization of the management.

3. Applicant's vehicle was not parked in a designated parking space.

4. The location of Application's parked vehicle was in a location that could interfere with access to the dumpster.

5. Sec. 2308.253, Occupations Code, provides that the owner or operator of a vehicle may not leave unattended on a parking facility a vehicle that obstructs pedestrian or vehicular access to an area that is used for the placement of a garbage or refuse receptacle used in common by residents of the apartment complex.

6. CARELTON COURTYARD APARTMENTS incurred attorneys fees in the amount of \$475.00

THEREFORE, the Court finds that probable cause did exist for the removal of the vehicle and that the ensuing storage of the vehicle was lawful. No complaint or evidence was presented objecting to the amount of the charges imposed and collected in connection with the removal and storage.

Therefore, IT IS ORDERED that Applicant take nothing as to CARELTON COURTYARD APARTMENTS and KEN'S TOWING.

IT IS FURTHER ORDERED that CARELTON COURTYARD APARTMENTS recover from Applicants their attorneys fees in the amount of \$475.00.

It is further ORDERED that each party bears his own costs of court.

An appeal from this hearing is governed by the rules of procedure applicable to civil cases in justice court,

except that no appeal bond is required (Section 23
08.459, Occupations Code).

Signed on this 8th day of November, 2016.

Penny L. Pope, Presiding Judge

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PENNY L. POPE

JUSTICE OF THE PEACE, PCT 3 GALVESTON
COUNTY, TEXAS

APPENDIX B

IN THE SUPREME COURT OF TEXAS

NO. 18-0860 ZSOLT PETKO AND ZSUZSANNA
ADAM v. CARELTON COURTYARD

Galveston County, 1st District

January 18, 2019

Petitioners' petition for review, filed herein in the above numbered and styled case, having been duly considered, is ordered, and hereby is, dismissed.

I, BLAKE A. HAWTHORNE, Clerk of the Supreme Court of Texas, do hereby certify that the above is a true and correct copy of the orders of the Supreme Court of Texas in the case numbered and styled as above, as the same appear of record in the minutes of said Court under the date shown.

It is further ordered that petitioners, ZSOLT PETKO AND ZSUZSANNA ADAM, pay all costs incurred on this petition.

WITNESS my hand and seal of the Supreme Court of Texas, at the City of Austin, this the 1st day of March, 2019.

Blake A. Hawthorne, Clerk

By Monica Zamarripa, Deputy Clerk