

**CHAIR**

- Licenses Committee
- City Information Management Committee

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- Milwaukee Arts Board

**MEMBER**

- Steering and Rules Committee
- Public Works Committee
- Milwaukee Public Library Board
- Employee's Retirement System Annuity & Pension Board



**NIK KOVAC**

ALDERMAN, 3RD DISTRICT

December 13, 2018

To the Honorable, the Common Council

Dear Members:

Re: Common Council File Number 181015

Attached is the written objection to file number 181015, Substitute motion revoking the Recycling, Salvaging, or Towing Premises license of Anthony Lopez, agent for Abyss Towing LLC, for the premises at 960 West Armour Avenue doing business as "Abyss Towing" in the 13<sup>th</sup> aldermanic district.

This matter will be heard by the full Council at its Tuesday, December 18, 2018 meeting. Pursuant to City Ordinances, a roll call vote will be taken to confirm that all members have read the attached statements and materials.

Respectfully,

A handwritten signature in black ink, appearing to read 'Nik Kovac'.

Nik Kovac, Chair  
Licenses Committee

cc: All Council Members  
City Attorney's Office  
Common Council/City Clerk – License Division  
CCF 181015



HART | POWELL<sup>SC</sup>

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MICHAEL F. HART\*  
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December 12, 2018

Jim Owczarski  
City Clerk  
City Hall, Room 205  
200 E. Wells Street  
Milwaukee, WI 53202

**Re: November 16, 2018 and December 7, 2018 Reports of the Licenses Committee on the complaint seeking revocation of the Recycling, Salvage, and Towing license held by Anthony Lopez, agent for Abyss Towing, for the premises located at 960 West Armour Avenue in the City and County of Milwaukee, Wisconsin (“Abyss Towing”)**

Dear Clerk Owczarski,

On behalf of my clients, Anthony Lopez and Abyss Towing LLC, please regard this correspondence as Objections to the Findings of Fact, Conclusions of Law, and Recommendation issued by the Licensing Committee on November 16, 2018 and December 7, 2018. As such, my clients request an opportunity to be heard at the Common Council meeting scheduled for December 18, 2018, at 9 a.m.

**Objections to the Licensing Committee Report issued on November 16, 2018:**

My clients specifically object to the Findings of Fact at paragraph A. The report omits Mr. Clark’s testimony that he got into his car and started it while the tow driver, Michael Strehlow, was attaching his car to the tow truck. The report also omits Mr. Clark’s testimony that he did not show his driver’s license or proof of ownership to the driver the night that his car was towed.

My clients specifically object to the Findings of Fact at paragraph D. The report omits the explanation provided for each exhibit submitted to the Licensing Committee by the Licensee.

My clients specifically object to the Findings of Fact at paragraph F. The report omits Mr. Strehlow’s testimony that Mr. Clark got into his car and started it while Mr. Strehlow was





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finishing attaching Mr. Clark's car to the tow truck. The report omits Mr. Strehlow's testimony that when Clark jumped in the car and started it, Strehlow was on the opposite side of the car lifting the last wheel of the go-jacks on the front of the car while the car's back tires were already attached to the tow boom and lifted off the ground.

My clients specifically object to the Findings of Fact at paragraph P that the licensee did not own up to any mistake and falsified facts. My clients contend that the drop fee in question was offered to the complainant and that the complainant refused to show proper identification and proof of ownership and therefore, a drop fee waiver was not provided to the complainant. The report in this paragraph omits any reference to the testimony and exhibits that corroborate the claim that a drop fee was offered. My clients further object to the characterization that "a tow truck driver may not have as good memory because they do lots of tows." To the contrary, Mr. Strehlow's testimony was detailed and specific as to what occurred on the night in question. His testimony was also corroborated by his own contemporaneous notes on a tow card and his telephone contact with the City Tow Lot, both which were submitted as exhibits. In addition, although not provided by my clients at the November 14, 2018 Licensing Committee hearing, my clients have since provided the Committee with records of several drop fees accepted in 2017 and through September of 2018. Those records were entered as exhibits during the December 7, 2018 Licensing Committee hearing.

My clients specifically object to the Findings of Fact at paragraph H. I believe Mr. Lopez' testimony at the November 14<sup>th</sup> hearing was that the company tows approximately 1,000 cars per year and the company has been in operation for 3 years. At the December 14<sup>th</sup> hearing, Lopez further clarified, and the submitted records corroborate, that Abyss tows approximately 1,000 cars per year, many of which are abandoned salvage cars.

My clients specifically object to the Findings of Fact at paragraph L. At best, the testimony of Mr. Woznick during the November 14<sup>th</sup> hearing was confusing and unsupported by other evidence. It is unclear from paragraph P whether Mr. Woznick's testimony established whether or not the City keeps specific statistics for private, non-City tows, the type involved in this specific matter. Regardless, Mr. Woznick provided no such information at the hearing. Furthermore, the uncorroborated information he did provide concerned private contractors performing 20,000-30,000 tows per year for the City. He further stated that 3% of those tows, 600-900, were "dropped". There was no information regarding the number of contractors, the number of tows per contractor, the number of drops per contractor, or whether salvage vehicles were included in the number of tows per year.

Based on the above, my clients specifically object to the Conclusions of Law that find my clients' have not met the criteria of Chapters 85 and 93 of the Milwaukee Code of Ordinances and that they are unfit to hold the license in question.







**HART | POWELL<sup>SC</sup>**

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**Objections to the Licensing Committee Report issued on December 7, 2018:**

My clients specifically object to the Findings of Fact at paragraph E. The report mis-characterized the records provided by my client and omits the specific explanations given during both the November 14<sup>th</sup> and December 7<sup>th</sup> hearings. The fact that DPW is looking into standardized forms regarding drop fees is troubling in that the Committee is advocating that my clients take the fall.

My clients specifically object to the Findings of Fact at paragraph F. The testimony of Mr. Strehlow was that he did offer Mr. Clark a drop fee but that Mr. Clark did not produce the requisite identification in order for the drop to proceed. Mr. Strehlow was not present during the recorded telephone call between Mr. Clark and Mr. Lopez at least one week after the tow of Mr. Clark's car.

My clients specifically object to the Findings of Fact at paragraph G. As I indicated the paragraph above, the testimony of Mr. Strehlow was that he did offer Mr. Clark a drop fee but that Mr. Clark did not produce the requisite identification in order for the drop to proceed. Mr. Strehlow was not present during the recorded telephone call between Mr. Clark and Mr. Lopez at least one week after the tow of Mr. Clark's car.

My clients' specifically object to the Committee's recommendation for revocation of my clients' Recycling, Salvage, and Towing license as it is unduly harsh given that the Committee found only a single ordinance violation over a span of three years in operation and approximately 1,000 tows per year of operation. In addition, a significant number of those tows are for abandoned or salvaged vehicles.

Based on the above, the previously submitted exhibits, and the anticipated oral arguments at the upcoming Common Council meeting, my clients' implore the Common Council to reject the recommendation of the Licensing Committee, or in the alternative, suspend the license for 10 days.

Respectfully submitted,

Daniel H. Sanders

Attorney for Anthony Lopez and Abyss Towing LLC

