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American Honda Finance Corporation v. the City of Revere Summary Judgment

On July 8, 2020, the United States District Court for the District of Massachusetts determined that a Massachusetts statute governing the towing and sale of vehicles is unconstitutional, on its face, because it does not require municipalities or tow operators to notify lienholders prior to the sale of the vehicles. [The full decision can be read here.](#) [Nicholas A. Duston, Esq.](#), a Member of law firm [Norris McLaughlin, P.A.](#), appeared *pro hac vice* to assert his clients' rights to due process of law secured by the Fourteenth Amendment of the United States' Constitution.

The statute, Mass. Gen. Laws. Ch. 255, § 39A, allows the police who seize a vehicle to give that vehicle to a towing company. If no one recovers the vehicle by paying the towing company, the statute allowed that company to sell the vehicle and keep the money. In other words, Massachusetts law permits municipalities to pay tow operators by giving away other people's cars instead of paying them with money. The statute also only requires notice only to the registered owner of the vehicle, but not to lienholders. Because the statute does not recognize liens in vehicles as protected property rights, it is at least a half-century out of tune with cases interpreting the Fourteen Amendment's guarantee that the government not deprive citizens of property without due process of law.

For many years, tow operators in Massachusetts demanded thousands of dollars in towing and storage fees if lienholders wanted to recover their collateral (i.e., vehicles), and pointed to this statute as legitimizing the demand. However, many courts reviewing similar laws in other states have found that a garage who obtains a vehicle through a police tow is a government actor, and both the municipality and garage must therefore obey the constitution. The constitution prohibits government actors from depriving people, including lienholders, of their property without first giving notice and a hearing before a neutral decisionmaker (like a judge) to determine the propriety of the government's actions.

Lienholders should take notice of this important decision. Tow yards in Massachusetts are now prohibited from selling vehicles without first telling lienholders and giving them a chance to recover the vehicle. Lienholders with liens in vehicles seized in Massachusetts should now insist that garages turn over vehicles without requiring payment of any kind. If the garages do not comply, this important decision means the garage can no longer point to state law to justify holding the vehicle hostage.



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