



**Joseph M. Centorino**, Inspector General

TO: Honorable Mayor and Members of the City Commission  
FROM: Joseph Centorino, Inspector General

DATE: September 24, 2020  
AUDIT: Tremont Towing, Inc. - Towing Audit  
OIG No. 20-19  
PERIOD: October 1, 2017 to October 31, 2018

This report is the result of a request made by the City Administration in November 2018 for the then-existing Office of Internal Audit to verify compliance of Tremont Towing, Inc. (Tremont Towing) with selected provisions in the City of Miami Beach Administrative Rules and Regulations For Police and Parking Towing Permits (Towing Permits) that were in effect during the audit period. An entrance conference meeting was held in December 2018 with Tremont Towing management to explain the audit process, to gain an understanding of their operations and to obtain copies of any relevant documents.

Although the reviewed Towing Permits contain a myriad of points that require compliance from Tremont Towing, Office of the Inspector General (OIG) staff concentrated its testing primarily on the accuracy of the City's monthly billings and the amounts charged to tested tow customers. To help achieve these objectives, we reviewed the provided Standard Operating Procedures, work performed, available body camera footage, documentation received from the City's Parking, Police and/or Finance Departments, as well as copies of the Vehicle Storage Receipts received from Tremont Towing.

As this audit was nearing completion, the City Commission voted in favor of terminating the internal audit at its June 5, 2019 meeting, and approval was granted for an outside audit of the tow companies. At that time all internal audit work was immediately suspended. The audit was subsequently revisited at the January 15, 2020 Commission meeting wherein it was acknowledged by the Commission that the newly created Office of Inspector General, as an independent agency, had the authority to conclude the audit or to take such further action within its authority as it deemed necessary.

Consequently, the audit was resumed and has resulted in the issuance of three separate audit reports, including this one. The other two audit reports consist of testing performed relative to Beach Towing Services, Inc. (Beach Towing) and of the City departments, Parking and Police, involved in the towing process. Although the work performed was reported separately, there may be some overlap in the three reports, as noted shortcomings may involve more than one of the parties involved.

## ACRONYMS

CAD = Computer Aided Dispatch  
GVW = Gross Vehicle Weight (Rating)  
LERMS = Law Enforcement Records Management System  
VSR = Vehicle Storage Receipts

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## **INTRODUCTION**

Chapter 106, Article V, of the Miami Beach City Code, provides for the issuance of towing permits for the towing of vehicles identified by the City's Parking and Police Departments as requiring removal from public and private property, as well as vehicle impoundments. The same two tow companies, Beach Towing and Tremont Towing, have continued to operate exclusively in Miami Beach since at least their selection based on their response to Request for Proposals No. 1-91/94. The negotiated towing permits for the two companies have been revised as needed in the following years.

More recently, City Resolution 2015-28918 was adopted on February 11, 2015 approving the issuance of new Towing Permits to Beach Towing and to Tremont Towing for a three-year term commencing on March 1, 2015 and expiring on February 28, 2018. Both companies' terms were extended for an additional one year through February 28, 2019 with the passage of City Resolution No. 2018-30161.

Next, the City Commission on December 12, 2019, approved a one-year extension for both tow companies of the same terms with a reduction of their charged automated teller machine fees. Although this extension expired in February 2020, Tremont Towing is currently continuing to operate on a month-to-month basis under its terms.

## **OVERALL OPINION**

Among other tests performed, OIG staff conducted a data analysis of all requested public tows occurring between October 1, 2017 and October 31, 2018, whereby selected supporting documentation as well as Parking and Police Department body camera footage for tested days was reviewed to determine whether the tow fees charged by Tremont Towing were appropriate. Throughout the audit process, communication was also maintained with the tow company's representatives to request additional information and/or documentation. However, the received responses were not always sufficient to clarify the perceived shortcomings. Although the data obtained from its sample results was not extrapolated to draw conclusions on a larger scale to the population, the outcomes from the audit process stated in this report suggest that the tow companies need stronger oversight.

OIG staff believes that the Towing Permits need revision to help improve accountability and to better ensure that individuals are being properly charged for public tows. Examples include, but are not limited to, placing more responsibility on the tow companies to justify charges to individuals whose vehicles are towed, better defining listed terms, clarifying any identified ambiguities, and more clearly defining the roles of all parties. Without making these and other needed revisions to the Towing Permits, the deficiencies noted in this audit report will most likely continue and tow customers will have little recourse.

It is recommended that future Towing Permits include language requiring each tow company to provide vehicle owners with photographic evidence of the impounded vehicles on dollies/flatbeds and/or the vehicle's doors needing to be opened by towing company personnel at the tow locations, to support any corresponding charges. This requirement would permit the consumers of tow services to determine the validity of the charges at the time they retrieve their vehicles and to question any discrepancies. Once the owners leave the scene, it becomes less likely that discrepancies will be noted or refunds retrieved, particularly by out-of-town vehicle owners.

Furthermore, the Parking Department employees present for all Tremont Towing's Parking Department public tows should function more as consumer and City advocates, since they are

present at each tow location and can verify whether dollies or flatbed services were used or whether the tow truck operators entered the vehicles through entries on the Vehicle Storage Receipts (VSRs). Any subsequently identified unsubstantiated charges should be promptly refunded to the consumers and/or financial penalties imposed on the tow companies by the City.

For example, Broward County's Code of Ordinances Section 81/2 - 16(b) titled "Violations of Towing and Immobilization Regulations" lists several violations (charging more than the allowable maximum towing and immobilization rate, failure to maintain records for the required period, failing to accept all mandated methods of payment, among others) whereby the first violation results in a \$250 fine per violation, which increases to \$500 for any repeat violations. Meanwhile, City of Miami City Code Section 42-109 states that a "person who charges a vehicle owner a towing or storage charge in excess of the rate described herein is liable to the vehicle owner for three times the amount charged." Conversely, Miami Beach's Towing Permits and City Code remain relatively silent on this issue, and there are currently minimal consequences for proven non-compliance.

Although several sections of the Towing Permits stipulate the City's right to suspend or terminate the permit if certain violations are incurred by permittees, enforcing such action could jeopardize tow service in the City, as only two companies are presently authorized to operate within the City's boundaries. Therefore, OIG staff believes that the City Commission should consider the possibility of expanding the tow market to include additional companies that would be required to operate a tow yard within a designated distance from the City's boundaries. If approved, this expansion would allow the City to impose a suspension or a termination of the agreement on a company without adversely affecting the availability of towing services. Alternatively, the City could elect to put the towing service out to bid to at least force the two current permit holders to compete for the City's towing operation.

Another option would be the in-sourcing of towing operations to be managed by the City or by a designated entity under greater City control. Despite the potentially high set-up costs with purchasing/leasing of wreckers/tow trucks, hiring/training staff, and preparing the location, there could be associated benefits including better control over operations and increased City revenues, as well as more transparency and oversight capability.

Although it was not provided to OIG staff because the footage was only kept for 30 days before it was automatically recorded over, Tremont Towing is commended for having selected staff worn body cameras prior to the beginning of this audit. Conversely, Beach Towing opted not to follow Tremont Towing's proactive approach and purchase body cameras for their employees. If required in the next negotiated Towing Permits, this audiovisual evidence could be provided to their tow customers and the City as corroboration for the charging of dollies or flatbed services, labor to engage/tow fees, etc.

The following shortcomings were noted during testing that require corrective action:

1. 12 of 20 sampled Tremont Towing customers were overcharged for dollies or flatbed services during the fourteen-day period of October 9, 2018 through October 22, 2018 as such equipment was not used at the tow locations, based on a review of available Parking Department body camera footage. Therefore, it was concluded that these 12 customers were overcharged by a total of \$480 ( $\$40 \times 12 = \$480$ ).
2. Tremont Towing overcharged 16 Class "B", four Class "C" and five Class "D" vehicle owners hook-up fees of the 42 reviewed (59.52%) based on an analysis of their gross vehicle weight ratings and other provided documentation.
3. Tremont Towing overcharged its customers labor to engage/tow fees for 12 of the 25 tows sampled in October 2018 based upon a review of Parking and Police Department body camera footage. As the tow operators were not observed accessing the vehicles at the tow location, it was concluded that these 12 customers were overcharged by a total of \$360 ( $\$30 \times 12 = \$360$ ).
4. The times that vehicles were impounded and/or released to their owners were not always

- indicated on the tow invoices; and one of the 22 tested retrieved vehicles was incorrectly charged storage fees.
5. The amounts charged and collected by Tremont Towing for state sales taxes on administrative and/or storage fees for Police Department requested tows does not appear to be necessary based on a review of the State Statutes and Florida Department of Revenue Law Library Technical Assistance Advisement (TAA) – 103463 with the City Attorney's Office.
  6. Tremont Towing did not maintain the required insurance coverage in accordance with Section 4 of the Towing Permits.
  7. Tremont Towing's furnished invoices contained two separate line items that contradicted the language in the Towing Permits.

## **SCOPE, OBJECTIVES, AND METHODOLOGY**

The scope of this audit was to determine Tremont Towing's compliance with selected terms set forth in the corresponding Towing Permits. The audit covered the period of October 1, 2017 through October 31, 2018, and it focused primarily on determining Tremont Towing's compliance with the following objectives:

- To determine whether vehicle owners were charged in accordance to the rates specified in the Towing Permits and in conformity with the services received.
- To determine whether the required annual Business Tax Receipt Certificates were obtained.
- To determine whether the required insurance coverage was maintained.
- Other procedures as deemed necessary.

This audit was conducted in accordance with the office's approved Standard Operating Procedures. Those require that we plan and perform the audit to obtain sufficient evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit methodology included the following:

- Review of applicable provisions within the City Charter and Code of Ordinances, and City Standard Operating Procedures;
- Interviews and inquiries of City and external companies' personnel in order to gain an understanding of the internal controls (relative to the operations of the tow services), assess control risk, and plan audit procedures;
- Performance of substantive testing consistent with the audit objectives, including but not limited to, examination of applicable transactions and records on a statistical and non-statistical sample basis;
- Drawing conclusions based on the results of testing with corresponding recommendations, and obtaining auditee responses and corrective action plans; and,
- Performance of other audit procedures as deemed necessary.

## **FINDINGS, RECOMMENDATIONS AND MANAGEMENT RESPONSES**

The information provided below is relevant for the first four findings, as it represents the criteria for OIG staff's testing of sampled customer charges. Per Section 22 of the Towing Permits, Tremont Towing shall not charge more than the following maximum allowable rates established by the City Permit (as same may be amended from time to time):

- A      The first eight hours of storage shall be without charge. Thereafter the following storage rates

shall apply per day:

- 1 Inside-Interior
  - a Motorcycles or Scooters \$12
  - b Any vehicle less than 20 feet in length and eight feet in width \$30
  - c Any vehicle over 20 feet in length \$40
- 2 Outside-Exterior
  - a Motorcycles or Scooters \$10
  - b Any vehicle less than 20 feet in length and eight feet in width \$30
  - c Any vehicle over 20 feet in length \$30
- 3 Boat and Trailer (Owner's Unit)
  - a Unit under 20 feet in length \$20
  - b Unit 21 feet to 35 feet in length \$35
  - c Unit over 35 feet in length \$45
- B Tow Rate Class "A" Tow Truck and Class "A" Car Carrier \$140
- C Class "B" Tow Truck \$145
- D Class "C" Tow Truck \$175
- E Class "D" Tow Truck \$200
- F Tow Rate Class "B" or "C" Car Carrier \$125
- G Use of Contractor's Boat Trailer, any length, including storage, per day:
  - 1 Trailer up to 18 feet in length \$50
  - 2 Trailer 18 to 30 feet in length \$75
  - 3 Trailer over 30 feet in length \$150
- H Additional charges:
  - 1 Extra labor or extra waiting time \$16.50 per hour after the first 30 minutes at the scene and prorated after the 1st hour in 15 minutes increments.
  - 2 Mileage Charges \$6 per mile, maximum of \$42 per tow.
  - 3 Administrative fee \$35 maximum per tow.
  - 4 Dollies or Flatbed Services \$40
  - 5 Labor to Engage/Tow (this is not an automatic fee and may only be imposed when access to enter the vehicle is required to properly engage/tow vehicle.) \$30
  - 6 After Hour Fee (may be assessed for tows retrieved between the hours of 8:00 PM and 8:00 AM.) \$30

A maximum administrative charge, different from the administrative fees mentioned above in Section 22(H)(3), not exceeding \$30 (and not as an automatic "add-on", but only when required to comply with Florida Statutes) may be imposed by the permittee for services such as the processing of paperwork, clerical work, or title research. Administrative charges are defined as costs associated with verification of a vehicle identification number; search of vehicle for ownership information; preparation of paperwork required by Florida Statutes; preparation and mailing of the notification letter(s); and preparation of vehicles for auction (including notification to owner or lien holder). Administrative charges shall not be imposed on vehicles with a "police hold" until or unless the hold is removed. Storage for City (confiscated) vehicles with "police holds" is free of charge to the City.

These maximum allowable rates mentioned above shall not apply to City of Miami Beach residents (such exemption(s) for City of Miami Beach residents shall hereinafter be referred to as the "Miami Beach resident discount"). To be eligible for this resident discount, individuals must provide proof of residency within the City of Miami Beach, and their driver's license information must match the registration information of the vehicle being towed. The permittee shall maintain a log documenting discounts given to City residents pursuant to the Miami Beach resident discount, which log shall be available for inspection and copying by the City Manager or his designee, upon request. The permittee shall prominently post a sign displaying the maximum allowable rates for both City and non-City residents within the area(s) on its premises designated for the vehicle owner or his agent to transact business.

### **Parking Department vs. Police Department Requested Tows**

In total, the Law Enforcement Records Management System (LERMS) showed that there were 23,844 (90.96%) Parking Department requested tows and 2,371 (9.04%) Police Department requested tows during the 13-month audit period. The Parking Department has established a process whereby their Coin Room staff manually enter into monthly Excel spreadsheets a detailed breakdown of all the individual amounts charged to each towed vehicle owner by the tow company, which includes, among others, storage fees, mileage charges, administrative fees, after-hours fees, labor to engage/tow vehicle fees, and state sales taxes.

Conversely, the Police Department has not established a similar process for documenting the individual amounts charged to each towed vehicle owner. Police Department's designated employees enter limited information from the VSR that are received from the tow companies into the Computer Aided Dispatch (CAD) System for the release of the vehicles before they are forwarded to the Records Section for filing. Shortly after the month's end, a CAD System report is generated of all recorded Police Department requested tows which is forwarded to the City's Finance Department for billing.

The detailed monthly Excel spreadsheets enabled OIG staff to perform a wide range of analyses on the Parking Department's requested public tows. Similar information is not readily available for the Police Department's requested tows, which only comprised 9.04% of the total tows. Therefore, their tows were typically excluded from further analysis, but there is no basis upon which to believe that analysis of those tows would differ from those of the Parking Department.

As the information in these Excel spreadsheets was entered through a manual data entry process, a quality control test was performed to assess their reliability. All 350 tows performed by both tow companies in a randomly selected 7-day period occurring between October 9, 2018 and October 15, 2018 were reviewed. The corresponding data present in 2,450 entry fields (7 fields x 350 tows) in the spreadsheets was compared to the applicable storage receipts and/or invoices so that any identified inaccuracies could be quantified. When completed, it was determined that only 16 of the entries contained errors or 0.65% (16/2,450), which means that the accuracy rate was 99.35% ((2,450 – 16)/2,450). Based on these results, OIG staff relied on the monthly spreadsheets data in performing various analyses for the audit period.

### **Alternating Tows**

Parking Department management stated that Dispatchers are to manually alternate tow requests between the two companies. If that practice is not followed at any given time, compensatory measures are to be taken to ensure that an equal share of overall tow requests is maintained. For example, if Tremont Towing inadvertently receives two consecutive tow requests, then Beach Towing is to receive two successive tows once the oversight is identified.

The 23,844 Parking Department requested tows recorded through the LERMS database were analyzed for the 13-month audit period for which the corresponding results are presented in Exhibit 1 below:

Exhibit 1

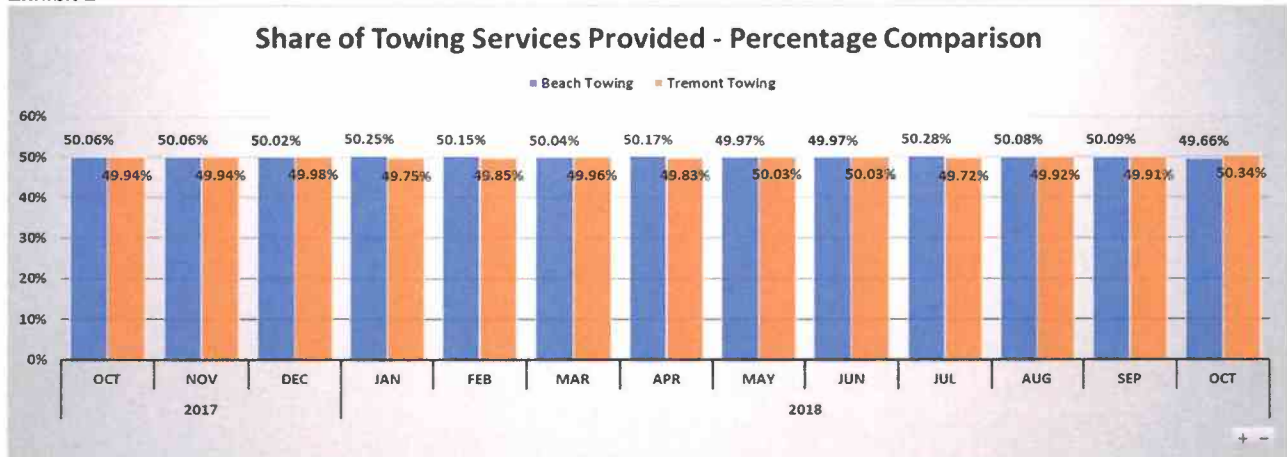
<b><u>Results</u></b>	<b><u>Number</u></b>	<b><u>Percentage</u></b>
Alternating:	23,474	98.45%
Not Alternating:	369	1.55%
Last in List (not able to be compared/Tremont)	1	0.00
Total:	23,844	100.00%
<b><u>Results for "Not Alternating"</u></b>		
Not Alternating - to the benefit of Tremont Towing:	169	0.71%
Not Alternating - to the benefit of Beach Towing:	200	0.84%



Total for Tremont:	11,907	49.94%
Total for Beach:	11,937	50.06%

Although no alternation occurred in 1.55% of the requested public tows, the subsequent breakdown showed that this difference was typically corrected. In summary, Beach Towing performed on a net basis only 15 more public tows than Tremont Towing ( $11,937 - 11,907 = 30/2 = 15$ ) during the 13-month audit period ( $((23,474/2) + 200 - 15 = 11,922 \times 2 \text{ companies} = 23,844 \text{ total})$ ). This immaterial 0.0629% difference ( $15/23,844$ ) was not investigated further. Exhibit 2 below provides a graphical depiction of the percentage share of tow services assigned to each company per month.

Exhibit 2



### Revenue Comparison

The information in the Parking Department's prepared monthly Excel spreadsheets includes the total amounts paid by each tow customer. OIG staff used this information to perform a revenue comparison (Exhibit 3 graphically and Exhibit 4 numerically) between the two towing companies, with the following results:

- The average rounded amount paid by customers per tow was \$255.45 which consisted of an average of \$268.60 for Beach Towing and \$242.27 for Tremont Towing.
- Beach Towing's billings exceeded Tremont Towing's by \$321,532 or by an average of 11.1% for the 13-month audit period.
- The percentage difference decreased to 3.7% for the last two months reviewed (September 2018 and October 2018) from 12.4% for the first 11 months (October 2017 through August 2018).

Exhibit 3

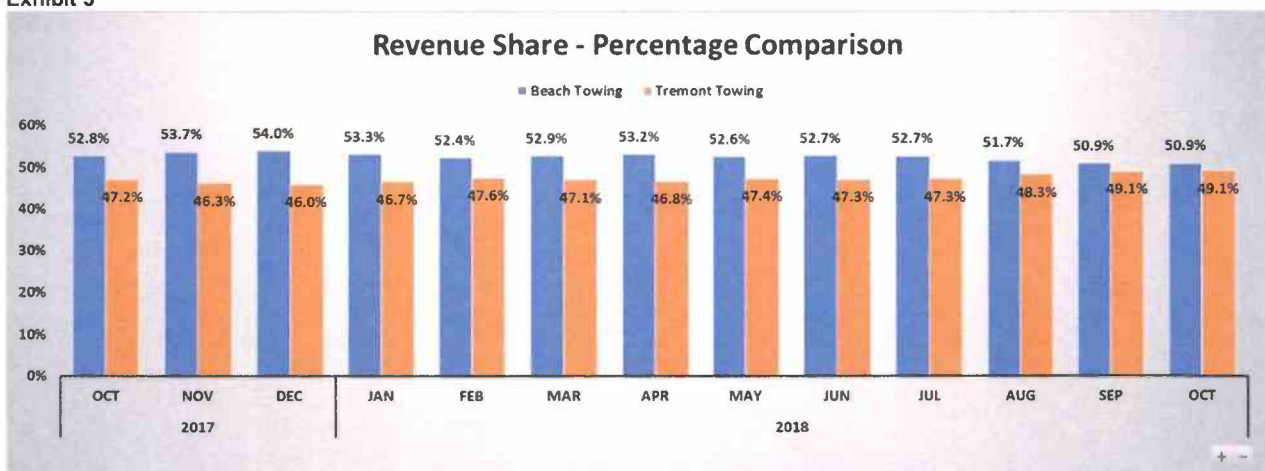
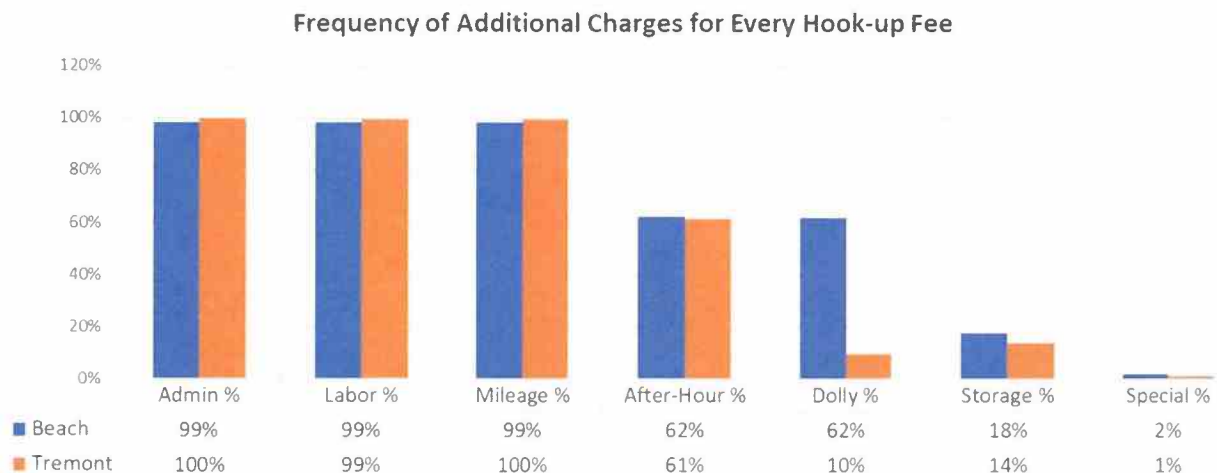


Exhibit 4

Adjusted Total					% Gap Between Revenues	
	Beach Towing	Tremont Towing	Grand Total	Difference		
Revenue Share	2017					
	Oct	\$239,026	\$213,975	\$453,001	\$25,051	11.7%
	Nov	\$220,967	\$190,249	\$411,216	\$30,718	16.1%
	Dec	\$274,832	\$234,259	\$509,090	\$40,573	17.3%
	2018					
	Jan	\$249,688	\$219,066	\$468,754	\$30,623	14.0%
	Feb	\$231,184	\$209,961	\$441,145	\$21,224	10.1%
	Mar	\$344,078	\$306,815	\$650,893	\$37,262	12.1%
	Apr	\$248,444	\$218,940	\$467,384	\$29,504	13.5%
	May	\$244,312	\$219,797	\$464,109	\$24,515	11.2%
	Jun	\$230,744	\$206,690	\$437,434	\$24,054	11.6%
	Jul	\$265,823	\$238,445	\$504,268	\$27,378	11.5%
	Aug	\$233,677	\$218,266	\$451,944	\$15,411	7.1%
	Sep	\$209,929	\$202,106	\$412,036	\$7,823	3.9%
	Oct	\$213,566	\$206,169	\$419,735	\$7,397	3.6%
Grand Total		\$3,206,271	\$2,884,738	\$6,091,009	\$321,532	
Average Difference for the 13-month period:					11.1%	
Average Difference for the initial 11-month period:					12.4%	
Average Difference for the last 2-month period:					3.7%	
Average amount paid by Beach Towing's customers:					\$268.60	
Average amount paid by Tremont Towing's customers:					\$242.27	
Average amount paid by customers:					\$255.45	

More specific testing was performed to determine the difference in the frequency of fees, established in the Maximum Allowable Rates per Section 22 of the Towing Permits, such as hook-up fees, storage fees, state sales taxes, dollies or flatbed service fees, labor to engage/tow fees, after-hour fees, etc. levied per tow. The data showed that both companies appear to be relatively consistent with the frequency in which the fees were applied, except for the dollies or flatbed services fee (61.81% for Beach Towing compared to 9.79% for Tremont Towing) as shown in Exhibit 5 below.

Exhibit 5





Upon interviewing key personnel, reviewing the Parking and Police Department's body camera footage, as well as other furnished supporting documentation, and covertly observing several tows in January and February 2019, the following shortcomings were identified:

**Finding #1: Customers Were Overcharged for Dollies or Flatbed Services Fees Not Rendered at the Tow Locations**

Dollies or flatbed services are required to transport all-wheel drive vehicles (so as not to damage their transmissions), or when the vehicles' wheels will not roll properly for some reason. To help compensate Tremont Towing for the additional time needed to install the dollies or the additional expense in using flatbeds, Section 22(H)4 of the Towing Permits allows for an additional \$40 fee to be charged to its customers in these instances. The following picture shows the usage of a dolly on a vehicle being pulled by a tow truck.



Exhibits 6 and 7 below provide a comparative analysis of the number of times that dollies or flatbed services were charged for each month of the audit period by tow company and the corresponding amount of fees charged. As a result, it was found that Beach Towing charged the corresponding \$40 fee approximately 650% more frequently Tremont Towing (7,179 compared to 1,106). However, the difference became much smaller in September 2018 (34 charges for Beach Towing vs. 29 for Tremont Towing) and October 2018 (62 charges for Beach Towing vs. 46 for Tremont Towing). It was also noted that the number of times that the dollies or flatbed services were charged decreased from an average of 644 times per month for October 2017 through August 2018 to 48 times per month for September and October 2018. This difference represents an estimated \$258,870 (see Exhibit 8 below) additional amount in dollies or flatbed services charges, when the initial eleven-month period (October 2017 – August 2018) is compared to the subsequent two-month period (September 2018 – October 2018).

Exhibit 6

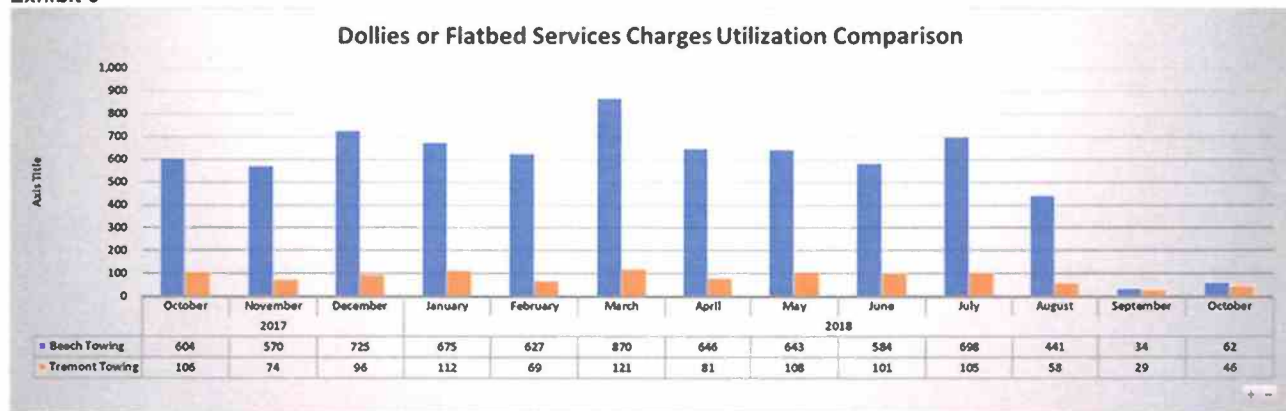


Exhibit 6's vertical axis represents the number of times that dollies or flatbed services were charged. The horizontal axis is the month in which dollies or flatbed services were charged during the audit period. The numerical figures below each month represent the total number of times that dollies or flatbed services were charged during that month by each tow company. Beach Towing is represented by the blue color bars; while Tremont Towing is represented by the orange color bars.

Exhibit 7

	Beach Towing		Tremont Towing		Total # of Charges	Total Amount
	# of Charges	Amount	# of Charges	Amount		
<b>2017</b>						
October	604	\$24,155	106	\$4,200	710	\$28,355
November	570	\$22,790	74	\$2,940	644	\$25,730
December	725	\$28,985	96	\$3,820	821	\$32,805
<b>2018</b>						
January	675	\$26,980	112	\$4,440	787	\$31,420
February	627	\$25,065	69	\$2,760	696	\$27,825
March	870	\$34,755	121	\$4,820	991	\$39,575
April	646	\$25,810	81	\$3,220	727	\$29,030
May	643	\$25,659	108	\$4,290	751	\$29,949
June	584	\$23,335	101	\$4,005	685	\$27,340
July	698	\$27,880	105	\$4,165	803	\$32,045
August	441	\$17,615	58	\$2,310	499	\$19,925
September	34	\$1,350	29	\$1,155	63	\$2,505
October	62	\$2,480	46	\$1,835	108	\$4,315
<b>Grand Total</b>	<b>7,179</b>	<b>\$286,859</b>	<b>1,106</b>	<b>\$43,960</b>	<b>8,285</b>	<b>\$330,819</b>

Exhibit 7 displays the number of dollies or flatbed services charged per month and the corresponding amounts charged to tow customers. Amounts shown were compiled using solely dollies or flatbed services charged, \$40 for non-residents and \$35 for residents, and do not include any other tow charges.

## Tremont Towing

	(B) Average Impounded Vehicles	(C) Average Impounded Vehicles Charged with a Dolly Fee	% of Dolly Charges to Impounded Vehicles (C/B)
Monthly Average from Oct 2017 through August 2018 (11 months)	885	94	11%
Monthly Average from Sept 2018 through Oct 2018 (2 months)	830	38	5%
(A) Average Monthly Number of Additional Dolly Charges When Compared the Initial Eleven-Month Period (Oct/17 - Aug/18) to the Subsequent Two Month Period (Sep/18 - Oct/18)		56	
Estimated Additional Number of Dolly Charges for the Initial Eleven-Month Period (A x 11)		619	
Dolly Rates (Nonresident / Resident)		\$40/\$35	
Estimated Additional Amount of Dolly Charges for the Initial Eleven-Month Period, Applying Percentages for Residents and Nonresidents and Abandoned. ((6,555 x (94.49%+0.78%) x \$40 + (6,555 x (3.95% x \$35))		\$ 24,426	

Exhibit 8 shows the monthly rounded averages of impounded vehicles and dollies or flatbed services (abbreviated as dolly above) charged and the percentage of the impounded vehicles that were charged dollies or flatbed services for the first eleven-months (gold fill) and the final two-months of the audit period (light green fill). Additionally, the rounded difference between the eleven-months average dollies or flatbed services charged and the two-month average of the same fee, was calculated.

A Miami New Times Article dated August 16, 2018 entitled "Beach Towing Tacks on Bogus "Flatbed" Fees, South Beach Driver Says"<sup>1</sup> discussed the apparent overcharging of the dollies or flatbed services fee to a Beach Towing customer. A follow-up Miami New Times article dated August 23, 2018 and entitled "Miami Beach Cracks Down on Bogus Flatbed Fees From Towing Companies"<sup>2</sup> commented that the Parking Department management informed both tow companies to charge dollies or flatbed services fees only if they were used in public view with a City agent present.

OIG staff's subsequent analysis determined that although Tremont Towing's number of charged dollies or flatbed services fees remained relatively constant from mid-August 2018 through October 2018, Beach Towing's corresponding fees significantly decreased. When both tow companies' shared representative was questioned as to the reasons for Beach Towing's decrease, he responded by email as follows: "....on August 17, 2018 both companies voluntarily agreed not to assess flatbed/dolly fees unless a City agent is present to notate the use of such equipment at the originating site of the tow. As previously explained, dollies/flatbeds are not always used at the initiation of the tow. This was a temporary and good faith proffer to avoid any confusion or misperception regarding the assessment of such fees due to inaccurate reporting by the media. It was both companies intention to address this temporary and voluntary practice with the City Commission when the towing permits were renewed in December 2018, but the opportunity did not present itself. It is both companies intention to revisit this matter with staff and/or the City Commission in the near future. In sum, both companies are still using flatbeds/dollies consistent with their historical practices; however, they are voluntarily waiving the flatbed/dolly fees for tows where a City agent is not present to notate the use of such equipment."

OIG staff contacted the tow companies representative and the City's Parking Director to determine the date that both parties mutually agreed to terminate this practice, but no documentation was received. Consequently, it was assumed that this practice remained in effect at least until the December 2018 City Commission meeting based on the above email.

1. <https://www.miaminewtimes.com/content/printView/10632612>

2. <https://www.miaminewtimes.com/content/printView/10649222>

Next, OIG staff reviewed all Parking Department tow impound documentation, as well as all tow receipts for the randomly selected seven-day period of October 9, 2018 through October 15, 2018 (172 tows). As only fourteen of these tows included the \$40 dollies or flatbed services charge, the subsequent seven-day period covering October 16 through October 22, 2018 was also tested which increased our sample size to twenty transactions. Our objective was to review the corresponding Parking Department's body camera footage to determine whether dollies or flatbed services were provided for charged customers at the tow locations in adherence with the terms reportedly agreed upon according to the August 23, 2018 newspaper article.

Of the 20 tows, for which body camera footage was reviewed, occurring on October 9, 2018 through October 22, 2018, it was found that two were inconclusive because the body camera footage did not accurately capture the entire tow. For the remaining 18 tows, it was determined that six were properly charged, as dollies or flatbed services were used at the tow locations, and 12 were overcharged as they were not used. Therefore, it was concluded that Tremont Towing was not fully complying with the August 2018 agreed upon terms and that these sampled customers were overcharged by a total of \$480 ( $\$40 \times 12 = \$480$ ).

#### Recommendations:

The City Commission and City Administration should consider that the next Towing Permits include the following provisions:

- a. Require that during the vehicle retrieval the customer be provided, along with the invoice, a picture of the vehicle on a dolly or a flatbed whenever a charge for such service is included, as well with any VSR submitted to the Parking or Police Departments as part of the City's billing process by the tow companies. The picture should show the vehicle license plate for accurate identification. These requirements should also be stated in the Towing Bill of Rights.
- b. Preclude the tow companies from billing for dollies or flatbed services unless they were used at the tow locations and the VSRs are noted as such by the Parking Enforcement Specialists.
- c. Allow for financial penalties that the City and/or the vehicle owners could invoke against a tow company in the event of verified overcharges, similar to Broward County's Code of Ordinances Section 81/2 - 16(b) and City of Miami City Code Section 42-109.

#### Tremont Towing's Response:

*Tremont Towing complies with the City's permit. The labor charge is applied to the tow when it is necessary to gain entry to the vehicle (e.g., to release the emergency break). This can be completed at the time of pickup or later after the vehicle is cleared from the location. Additionally, Tremont only applies flatbed and/or dolly fees when a flatbed or dolly is used in the removal of the vehicle.*

*Tremont would welcome the City's implementation of an electronic system should funding be available in the City's budget to allow for retention of photos and computerization of the vehicle storage receipt.*

#### **Finding #2: Customers Overcharged Due to Tow Companies' Incorrectly Rating the Towing Weight Classification**

Section 22(B) through (E) of the Towing Permits details the hook-up fees for the different classes of vehicles ranging from \$140 for Class "A" tows to \$200 for Class "D" tows. In summary, the Towing Permits allow each tow company to bill hook-up fees based on the class of the wreckers/tow trucks and/or car carriers as defined in Section 11 of the Towing Permits below:



- A. Class "A" wreckers and slide back car carriers - commercially manufactured unit, with a rated capacity of not less than 10,000 pounds, GVW (gross vehicle weight)
- B. Class "B" wreckers - commercially manufactured units, with a rated capacity of not less than 18,000 pounds, GVW  
Class "B" slide back car carriers – commercially manufactured unit, with a rated capacity of not less than 20,000 pounds, GVW
- C. Class "C" wreckers – commercially manufactured unit, with a rated capacity of not less than 36,000 pounds, GVW

According to the website [automotozine.com](https://automotozine.com)<sup>3</sup>, the gross vehicle weight (also known as gross vehicle weight rating) is explained as "...a safety regulation used to prevent the overloading of vehicles. It's the maximum safe operating weight of a truck, including its net weight, plus driver, passengers, cargo, and fuel. The gross vehicle weight rating doesn't change after a manufacturer determines it for a vehicle".

Given this information, OIG staff found it difficult to believe that the Towing Permit provisions would allow the tow companies to charge the customer higher rates when they use a larger wrecker/tow truck than is needed to tow a vehicle. In other words, it would not be proper to charge the customer hook-up fees of \$200 (Class "D") when a Class "D" wrecker/tow truck is used to tow a vehicle with a GVW of 8,000 pounds rather the \$140 fee that would be charged for the appropriate Class "A" wrecker.

A legal opinion from the City Attorney's Office was requested to confirm this interpretation, and the following response was received:

"The maximum allowable rate to be charged by Beach Towing Services, Inc. or Tremont Towing, Inc. (collectively, the "Towing Permittees") for any vehicle tow must be based upon, and solely depend on, the Gross Vehicle Weight ("GVW") of the actual vehicle being towed, irrespective of the classification of the wrecker ("A", "B", "C" or "D") which is utilized for the towing of said vehicle by the respective Towing Permittees.

In other words, pursuant to the Towing Permits, there is no prohibition on the Towing Permittees employing a wrecker with a rating capacity greater than necessary to accomplish the tow of a particular vehicle. However, should the Towing Permittees utilize a wrecker with a rating capacity greater than necessary to effectuate the tow of a particular vehicle (when a wrecker of a lesser rating capacity could safely carry out such tow), then the affected customer should only be charged based upon the rates set forth in the Towing Permits for the lowest rated (least expensive) wrecker class that could have been utilized to accomplish the tow based upon the towed vehicle's GVW."

In addition, OIG staff made the following assumptions in its testing:

- a. Class "D" wreckers are not specifically addressed in the Towing Permits; therefore, they would contain a rated capacity of equal to or more than 36,000 pounds (the maximum weight limit for Class "C" wreckers).
- b. As the rated capacities for Class "B" wreckers and side back car carriers was slightly different (18,000 vs. 20,000 pounds respectively), then any vehicles whose GVW was more than 10,000 pounds but did not exceed 18,000 pounds would be charged Class "B" hook-up fees. If the vehicles GVW exceeded 18,000 but not 36,000 pounds, then it would be charged Class "C" hook-up fees.

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<sup>3</sup> <https://automotozine.com/gross-vehicle-weight-rating-explained/>



Testing was performed on the Parking Department's requested tows during the audit period to determine Tremont Towing's compliance with Section 22(B) through (E) of the Towing Permits. As such, OIG staff identified 11,294 tows requested by the Parking Department in which hook-up fees were billed by Tremont Towing, based on the Excel monthly spreadsheets. Although these tows were not listed as Class "A", "B", "C", or "D" on these spreadsheets, all tested tows were systematically classified based on their corresponding fees charged to non-residential customers (ex. \$140 = Class "A", \$145 = Class "B", \$175 = Class "C" and \$200 = Class "D").

Exhibit 9 below shows the number and percentage of Parking Department requested tows performed by Class for each tow company during the audit period based on the Excel spreadsheets listed data.

Exhibit 9

Beach Towing			Tremont Towing		
	Count of Class Breakdown	% of Class Breakdown		Count of Class Breakdown	% of Class Breakdown
Class A	11,067	95.29%	Class A	11,250	99.61%
Class B	459	3.95%	Class B	28	0.25%
Class C	74	0.64%	Class C	5	0.04%
Class D	14	0.12%	Class D	11	0.10%
<b>Grand Total</b>	<b>11,614</b>	<b>100.00%</b>	<b>Grand Total</b>	<b>11,294</b>	<b>100.00%</b>

*This analysis solely included tows in which hook-up fees were charged to customers according to the Parking Department's provided monthly Excel spreadsheets. Any tows performed where hook-up fees were not assessed were excluded from analysis which included tows of abandoned vehicles, instances where the tow documentation was apparently not submitted by the towing company as no information was recorded in the spreadsheets, and any tows performed on a "no-charge" basis which included tow services provided for City vehicles, crime victims, etc.*

As shown above, Tremont Towing performed 11,250 Parking Department requested Class "A" vehicle tows, for which a \$140 fee or less was charged, and which represented 99.61% of their total tows during the 13-month audit period. In addition, Section 22 of the Towing Permits states, "*The permittee shall not charge in excess of the following maximum allowable rates established by the City (as same may be amended from time to time) ...*" The \$140 Class "A" base tow fee would be the maximum rate for those tows but also the lowest of the base rates chargeable for all tows. Therefore, there would be no risk of overcharging based on gross vehicle weight if Class "A" fee is applied, as all tows assessed hook-up fees greater than \$140 would be classified as either Class "B", "C", or "D" tows. Consequently, no additional testing was performed on Class "A" tows, and the OIG staff focused on the tows in which the hook-up fees charged exceeded \$140, which represented 0.39% of all Tremont Towing tows.

Each sampled vehicle's make and model was obtained from the vehicle identification number and/or license plate number listed on the VSR for the vehicle, as well as any attached supporting documentation. Next, the gross vehicle weight ratings were obtained from internet searches of the manufacturers' websites for these specific vehicles, which was then compared to the gross vehicle weight limits in Section 11 of the Towing Permits. As a conservative measure, OIG staff always selected the vehicle's most comprehensive trim available (the largest engine, extended cab, 4x4, etc.) or the highest gross vehicle weight ratings listed for each of the tested vehicles.

Appendix A located at the end of this report lists the tested vehicles for each Class and their corresponding impound numbers, make and model, gross vehicle weight ratings, etc. Due to their relatively small number (28 Class "B" + 4 Class "C" + 10 Class "D" = 42 total), all the vehicles charged Class "B", "C" and "D" hook-up fees by Tremont Towing were tested in which the following summarized results were obtained:

- a. 12 of the 28 Class "B" vehicle tows (42.86%) contained gross vehicle weight ratings equal to or more than 10,000 pounds but less than 18,000 pounds and were properly charged. However, the 16 remaining vehicle owners (57.14%) were overcharged, as their gross vehicle weight ratings were less than 10,000 pounds.
- b. All four Class "C" vehicle tows were overcharged, as they contained gross vehicle weight ratings less than 18,000 pounds.
- c. Five of the 10 Class "D" vehicle tows (50%) contained gross vehicle weight ratings equal to or more than 36,000 pounds and were properly charged. The remaining five customers (50%) were overcharged, as their gross vehicle weights were less than 36,000 pounds.

Lastly, it was determined that eight tows were assessed hook-up fees that exceeded the \$200 Class "D" maximum allowable rate established in Section 22 of the Towing Permits. Inquiries were made with Tremont Towing's representative in which a satisfactory explanation was received for one of these tows, while he also stated that the remaining seven tows were incorrectly charged ranging from a low of \$300 to a high of \$400. These seven tows with excessive hook-up fees were also included in the analysis above concerning the vehicle's gross vehicle weight ratings.

#### Recommendations:

The City Administration and/or City Commission should consider implementing the following recommendations to improve customer knowledge and to increase Tremont Towing's responsibilities:

- a. The Towing Permits, Towing Bill of Rights, and the signage displayed at Tremont Towing's offices should more clearly define the applicable hook-up fee charges and the corresponding GVW ratings so that tow customers can better determine whether the charged fees are valid for their vehicles.
- b. The burden of proof should be on the tow companies to show that any hook-up fees other than the \$140 Class "A" hook-up fee are valid, rather than putting the burden on less informed consumers to determine the applicable charges based on their vehicles' GVW.
- c. The Towing Permits should allow for financial penalties that either the City and/or the vehicle owners could invoke against the tow companies in the event of verified overcharges, similar to Broward County's Code of Ordinances Section 81/2 - 16(b) and City of Miami City Code Section 42-109.

#### Tremont Towing's Response:

*Guidance from the City and amendment of the Ordinance is needed for Class D charges. Tremont does not maintain any Class D wreckers and we have simply charged what the wreckers from the City of Miami billed Tremont for City tows. We have implemented a training protocol to ensure compliance until such time as the permit is amended to reflect the proper cost of Class D tows.*

#### Finding #3: **Customers Were Overcharged for Labor to Engage/Tow Fees Not Rendered at the Tow Locations**

Section 22(H)(5) of the Towing Permits states that the \$30 labor to engage/tow fee "... is not an automatic fee and may only be imposed when access to enter the vehicle is required to properly engage/tow the vehicle." This fee is to be charged when the tow truck operator needs to enter the vehicle to disengage the emergency brake, straighten the vehicle's wheels, etc. to facilitate towing and to help avoid damaging the vehicles. Therefore, OIG staff concluded that the tow truck operators would have to enter the vehicles at the tow locations to achieve these desired results and for the labor to engage/tow fees to be charged.

As the 20 reviewed Parking Department transactions in finding #1, occurring from October 9, 2018 through October 22, 2018, contained charges for labor to engage/tow fees as well as dollies or flatbed services fees, OIG staff concurrently observed the available footage to determine whether the tow operators entered the vehicles at the tow locations. It was observed that eight tows were inconclusive, as the body camera footage did not accurately capture the entire tow. Of the remaining 12 tows observed during this fourteen-day period, it was determined that three customers were properly charged labor fees, as the tow operators were observed entering the vehicles at the tow locations, but that nine customers were overcharged because no entrance was observed. Therefore, it was concluded that Tremont Towing was not fully complying with Section 22(H)(5) of the Towing Permits terms and these nine customers were overcharged by a total of \$270 (\$30 x 9 = \$270).

A similar review of the Police Department's tow impound documentation, as well as all invoices for the period of October 9, 2018 through October 15, 2018 (5 tows) was performed. Upon reviewing the body camera footage retained by the Police Department, it was found that two tows were inconclusive as the auditor could not tell if the tow operators physically entered the vehicles. Of the remaining three tows, it was determined that all were overcharged as the tow operators were not observed entering the vehicles at the tow locations. As a result, each of these three customers was overcharged \$30 for a total of \$90 (\$30 x 3 = \$90).

In summary, body camera footage from the Parking and Police Departments was reviewed for 25 tows in which labor to engage/tow fees were charged in October 2018. Of these tows, ten were inconclusive, as OIG staff could not determine whether the tow operators entered the vehicles at the tow locations. For the remaining 15 tows, it was concluded that three were properly charged and 12 were overcharged by a total of \$360 (\$30 x 12 = \$360).

OIG staff also analyzed how often the \$30 labor to engage/tow fee was charged during the 13-month audit period based on the data in the Parking Department's monthly Excel spreadsheets. The results of this analysis showed that Tremont Towing charged labor to engage/tow fees for 11,230 of the 11,294 tows that were charged hook-up fees and which occurred from October 1, 2017 through October 31, 2018 (99.43%), resulting in \$334,477 being charged to their tow customers (see Exhibit 12 below).

Exhibit 10

Labor to Engage/Tow Fees Labor Charges Analysis				
	Count of Hookup Fee	Labor Charges	% of Labor Charges	\$ Labor Charges
2017 December	924	916	99.13%	\$27,226
November	756	748	98.94%	\$22,180
October	824	821	99.64%	\$24,390
2018 April	854	852	99.77%	\$25,360
August	864	849	98.26%	\$25,562
February	804	803	99.88%	\$23,885
January	840	833	99.17%	\$24,810
July	930	928	99.78%	\$27,595
June	819	815	99.51%	\$24,245
March	1,186	1,183	99.75%	\$35,290
May	855	855	100.00%	\$25,569
October	832	825	99.16%	\$24,505
September	806	802	99.50%	\$23,860
<b>Grand Total</b>	<b>11,294</b>	<b>11,230</b>	<b>99.43%</b>	<b>\$334,477</b>

Exhibit 10 shows the number of labor to tow/engage fees charged relative to the number of hook-up fees assessed, their corresponding percentage, and the dollar amounts associated with the total number of labor to engage/tow fees per month and cumulatively for the audit period of October 1, 2017 through October 31, 2018.

A closer review of the charged labor to engage/tow fees listed on the Parking Department's Excel monthly spreadsheets found that four exceeded the \$30 maximum allowable rate which were subsequently emailed to Tremont Towing's representative for an explanation on February 1, 2019. On February 6, 2019, satisfactory explanations were received for two of these tows; however, the explanations provided for the remaining two tows were insufficient to determine the reason for the overcharges, so OIG staff concluded that the labor fees on these two tows were overcharged by an estimated \$102.00.

These two explanations were considered insufficient because they were incorrectly calculated based on the Towing Permits' maximum allowable rates and the information listed. For example, the representatives' response for the vehicle with impounded number 143132, for which a labor charge of \$99 was made, is *"The labor fee did not exceed the maximum allowable rates. A \$30 labor fee was charged. In addition to the \$30 labor fee, additional labor in the amount of \$66 was charged pursuant to Section 22(H)(1). The tow took a total of 1.5 hours to perform"*.

According to Section 22(H)(1) of the Towing Permits, the charge for a 1.5 hour of labor or waiting time is \$16.50 (1.5 - 0.5 hours = 1-hour x \$16.50) when the first half hour is discounted. Thus, OIG staff determined that the labor to engage/tow fees on these two tows were incorrectly billed in that customers were charged fees ranging from a low of \$60 to a high of \$90.

Recommendations:

The City Commission and City Administration should consider that the next Towing Permits contain provisions as follows:

- a. Require that the customer be provided during the vehicle's retrieval, along with the invoice, one or more picture(s) of the vehicle with the door open when this charge is billed, as well as a copy of the VSR submitted to the Parking or Police Departments by the tow companies as part of the City's billing process. The corresponding picture(s) should also show the vehicle's license plate for accurate identification. These requirements should be stated in the Towing Bill of Rights.
- b. Preclude the tow companies from billing labor to engage/tow fees unless the VSRs are noted as such by the Parking Enforcement Specialists present at the tow locations.
- c. Include financial penalties, that either the City and/or the vehicle owners could invoke against the tow companies, in the event of verified overcharges, similar to Broward County's Code of Ordinances Section 81/2 - 16(b) and City of Miami City Code Section 42-109.

Tremont Towing's Response:

*Tremont provides an itemized receipt to every customer who retrieves his or her vehicle. Additionally, signage encourages customers to retain their receipt is clearly displayed at the pick-up window.*

*We would have no issue with the City's Parking Enforcement being present and videotaping each and every tow on City property but would request that the City implement an electronic record system to streamline compliance.*

*Florida law already allows customers to seek redress in court. Tremont works with customers who have questions and complaints about the charges and the vast majority of all disputes are resolved amicably.*

**Finding #4: Time Information is not Always Present in Tow Invoices; and One Tested Storage Fee Transaction was Incorrectly Charged.**



Section 22(A) of the Towing Permits paraphrased states that the first eight hours of storage shall be without charge and then it subsequently lists the daily storage rates based on the type and size of vehicle. On average, Tremont Towing charged customers storage fees for only 14% of its tows as most vehicles were retrieved within eight hours.

OIG staff reviewed a total of 172 towed vehicles' documentation from the randomly selected seven-day period of October 9 through October 15, 2018 to determine the corresponding accuracy of charged storage fees. Of these, five were missing the times that the vehicles were impounded and 17 were missing the time that the vehicles were released to its owners.

Recommendations:

The City Administration and City Commission should consider that the next Towing Permits include the following provisions:

- a. Require that an automated time/date stamp be used rather than manual notations to help reduce the possibility of errors or manipulation, and that this information be made available to the City upon request. In the interim, Tremont Towing staff should always include the time that the vehicle was impounded and the customer's retrieval time to facilitate storage fee calculations.
- b. Require that tow customers receive copies of their VSRs, which contain the times that their vehicles were impounded, so that they can accurately determine whether any storage fees charged are appropriate. The tow companies should have the responsibility to fully explain any charges to customers before any monies are remitted.

Tremont Towing's Response:

*Since the time period evaluated by the audit, Tremont has already implemented a machine-generated timestamp but if the City wishes to standardize the automated machine, we would welcome recommendations and/or certifications as to the machine type and model from the Parking Department or City Commission.*

*Additionally, Tremont provides all customers with copies of the receipts which contain the times the vehicles were towed and retrieved from the lot.*

**Finding #5: Sales Taxes Charged and Collected on Police Department Requested Tows Appear to be Unnecessary**

A review of the supporting documentation provided for Tremont Towing's 178 sampled tows, occurring from October 9 through October 15, 2018, found that they were consistently charging 7% state sales tax on any amounts collected for administrative and/or storage fees. OIG staff did not analyze Tremont Towing's monthly state sales tax returns to ensure that the correct amounts were remitted, as this report focused only on public tows, and any sales tax monies paid would also include any private tow taxable amounts, precluding a segregation of sales taxes charged on public tows.

However, the OIG staff's review of the State Statutes and ancillary documentation such as TAA – 103463<sup>4</sup> found that the administrative and/or storage fees are not taxable for vehicles lawfully impounded for legal reasons. In subsequent conversations with the City Attorney's Office, it was concluded that none of the Police Department's requested tows would appear to be subject to state sales tax based on the known information. Although the exact amount collected in state sales taxes is unknown as the Police Department did not create and maintain monthly Excel spreadsheets as did the Parking Department, a portion may have been unnecessarily charged and collected.

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<sup>4</sup> <https://revenue.law.floridarevenue.com/LawLibraryDocuments/2011/09/TAA-103463>



Recommendations:

Tremont Towing should confirm with the State of Florida before taking any definitive action; however, OIG staff's position is that the 7% state sales tax should not be charged on administrative and/or storage fees for vehicles lawfully impounded for legal reasons (Police Department requested tows). If subsequently confirmed by Tremont Towing with the State of Florida, they should discontinue charging and collecting sales tax on these tows, but until then all amounts collected should be timely and completely remitted.

Tremont Towing's Response:

*Following guidance from the Parking Department and/or City Commission we will consult with Tallahassee, but all sales tax collected as already been remitted to Tallahassee and it is unlikely that the State will refund the monies.*

Finding #6: **Deficiencies in the Required Insurance Coverage Maintained**

Section 4 of the Towing Permits specifies the required insurance coverage to be in full force and effect at all times throughout the term. A copy of Tremont Towing's current insurance policy was requested and promptly received from the City's Parking Department. As it had not been previously reviewed by the City's Risk Management Division for sufficiency, OIG staff met with a Risk Management Division employee on January 31, 2019 whereby the following coverage deficiencies were noted:

- The named certificate holder was Tremont Towing, Inc. instead of the City of Miami Beach in the workers' compensation certificate of liability insurance covering between 10/01/2017 and 03/01/2018 or the first 6 month of the audited period.
- The named certificate holder was the City of Miami Beach Parking Department instead of the City of Miami Beach, which should be the named certificate holder.

Recommendations:

Tremont Towing should always maintain the required insurance coverage in accordance with the Towing Permits. It was recently verified with the City's Risk Management Division that Tremont Towing has resolved these coverage deficiencies and is compliant with Section 4's terms. Going forward, the Parking Department Director and/or the Police Chief should instruct designated staff to verify that Tremont Towing maintains the required insurance coverage in accordance with the Towing Permits.

Finding #7: **Invoices Contain Language that is Contrary to the Towing Permits**

Section 22 of the Towing Permits specifies the maximum allowable rates for towing, removal, and storage. More specifically, subsection H entitled "Special and additional charges" states "1. Extra labor or extra waiting time \$ 16.50 per hour after the first 30 minutes at the scene and prorated after the 1st hour in 15 minutes increments". However, sampled Tremont Towing VSRs found that under the section "Other Charges", they contained the following line item which contradicts Section 22's terms: "\$16.50 EVERY 15 MIN., After 30 minutes on scene, includes retrieving and special handling \$\_\_\_\_\_".

In addition, Section 22 (H)(5) of the Towing Permits describes the labor to engage/tow fee and its \$30 maximum allowable rate, as "This is not an automatic fee and may only be imposed when access to enter the vehicle is required to properly engage/tow the vehicle.". Yet, reviewed Tremont Towing invoices stated "labor – open door or disconnect linkage \$30", are incorrect as the Towing Permits do not include disconnect linkage as a valid reason to impose this fee.

Recommendations:

The Parking Department Director should instruct Tremont Towing to promptly amend their invoices so that they do not contradict the stated conditions in the Towing Permits and the tow customer is charged correctly.

Tremont Towing's Response:

*Tremont will work with the Parking Department and the City to update its invoices with the City's Recommendations to make the receipt more understandable.*

## **RECENT UPDATES**

As any identified deficiencies plus the Parking Department's Excel spreadsheets containing the total tow population during the audit period had been previously forwarded to the auditees and two exit conferences to discuss the audit findings had already been held during 2019, a third exit conference was not deemed necessary. Instead, the draft reports for both Tremont Towing and Beach Towing were emailed to their shared attorney, Rafael Andrade, on July 15, 2020 in which both companies were given 30 working days, or until August 27, 2020, to provide their management responses in compliance with to Section 2-256(h), City of Miami Beach Code.

Mr. Andrade then requested OIG's supporting documentation related to findings 1, 2, and 3 in emails sent between the 18<sup>th</sup> and 20<sup>th</sup> of August. The OIG provided the requested information to the City Clerk's Office on August 24<sup>th</sup>. Mr. Andrade was notified via email on the same day that the eight CDs containing the requested information were available from the City Clerk's Office upon receipt of the payment of the cost of preparing the information. As of August 26<sup>th</sup>, the information still had not been retrieved from the City Clerk's Office, but the tow companies' attorney was requesting additional time until September 30<sup>th</sup>. The City's Inspector General agreed to extend the time to provide responses until September 7<sup>th</sup> at 5pm.

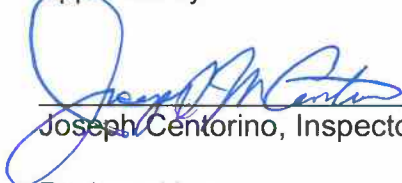
In regard to finding #2, Mr. Andrade not only requested the supporting information for the 60 randomly sampled Class B tows, but also for the remaining 399 Class B Beach Towing tows that were not tested by OIG staff, and as such, had not been addressed in any of the three draft towing reports. Nonetheless, OIG staff identified and submitted on September 7<sup>th</sup> all known information for these 399 Class B tows, including the impound numbers, to Mr. Andrade. As a courtesy, the City's Inspector General extended the deadline for responses to both tow reports to September 9<sup>th</sup> at 5pm.

Mr. Andrade requested an extension to at least September 16<sup>th</sup> to perform research and test these additional 399 Class B tows, which was declined by the Inspector General on September 8<sup>th</sup>. Mr. Andrade provided a response on September 9<sup>th</sup> for the Beach Towing audit in which he claimed that the Inspector General failed to disclose to the City Commission that on or about December 4, 2019, he had referred the Beach Towing audit to the Miami-Dade State Attorney's Office (SAO) for criminal investigation, and that inasmuch as Beach Towing is under criminal investigation it would refrain from addressing the allegations until the SAO completes its investigation. The response is attached to the Beach Towing audit report. Mr. Andrade did not respond on behalf of Tremont Towing.

On August 27, 2020, the day before the original response deadline, Tremont Towing's President and CEO, Manny Diaz, contacted OIG staff to state that he had terminated Mr. Andrade's services and had asked their litigation counsel, Alexander Orlofsky, to represent the company in the City's Audit. Tremont Towing's representatives and their attorney met with OIG staff on September 10<sup>th</sup> to openly discuss the audit findings addressed in their report and possible solutions. Based on the documentation received, the draft report was revised and emailed to Mr. Orlofsky on September 14<sup>th</sup> for Tremont Towing's management responses. The management responses received are included herein.

During the September 10<sup>th</sup> meeting, Mr. Diaz claimed that his company did not receive the July 15, 2020 draft report as it was sent via email only to Mr. Andrade, who allegedly did not timely share its contents and told the City that Tremont ended its attorney-client relationship with Mr. Andrade. The OIG has been sending all audit correspondence exclusively to Mr. Andrade since being notified in a December 14, 2018 email that he represented both tow companies. Mr. Diaz stated that he would have responded timely if he had known about the latest draft and that he has already implemented several of the prior draft's recommendations. He continued to state that the City could review any of Tremont Towing's maintained body camera footage, which they had implemented several years ago prior to this audit's inception. Beach Towing does not currently have its staff wear body cameras and is not known to have implemented such corrective action.

Approved by:

  
\_\_\_\_\_  
Joseph Centorino, Inspector General

09/24/2020  
Date

Reviewed by:

  
\_\_\_\_\_  
Mark Coolidge, Chief Auditor

09/24/2020  
Date

Completed by:

  
\_\_\_\_\_  
Norman Blaiotta, Deputy Chief Auditor

09/24/2020  
Date

cc: Jimmy L. Morales, City Manager  
Eric Carpenter, Assistant City Manager  
Saul Frances, Parking Director  
Richard Clements, Police Chief  
John Woodruff, Chief Financial Officer  
Michael Smith, Human Resources Department Director

Tremont Towing, Inc. - Towing Permits Compliance Audit - September 24, 2020

Appendix A. Tested vehicles for each tow class assigned and their corresponding impound numbers, make and model, gross vehicle weight ratings, etc. (Finding 1)

Green = Overcharged Class B Tows

Blue = Overcharged Class C Tows

Orange = Overcharged Class D Tows

# Tows	# Tows Tested	Impounded Number	Impounded Date/Time	Impounded From Location	Vehicle Brand/Model	Vehicle Year	Vehicle Gross Weight Rating (GVWR) lbs.	Hookup Fee Charged	Tow Class Assigned (Based on Hookup Fee Charged)
Overcharged									
	1	128907	10/11/17	400 16TH ST, Miami Beach	Ram 3500	2015	11,500	\$145	B
	2	130598	11/09/17	1800 PURDY AVE LOT, Miami Beach	Ram 3500	2015	11,500	\$145	B
	3	133943	01/05/18	1300 15TH ST, Miami Beach	Ram 3500	2015	11,500	\$145	B
	4	129339	10/18/17	800 EUCLID AVE, Miami Beach	Ford F350	1999	11,200	\$145	B
	5	131351	11/24/17	728 OCEAN DR, Miami Beach	Ford E350	2008	11,200	\$145	B
	6	137538	03/06/18	1100 WEST AVE, Miami Beach	Ford F350	2005	11,200	\$145	B
	7	129883	10/28/17	1300 OCEAN CT, Miami Beach	Chevrolet Express 3500	2017	10,400	\$145	B
	8	145804	07/13/18	1600 EUCLID AVE	Chevrolet Express 3500	2010	10,400	\$145	B
	9	130602	11/09/17	1800 PURDY AVE, Miami Beach	Ford F350	2015	10,200	\$145	B
	10	132603	12/15/17	1600 WASHINGTON AVE, Miami Beach	Ford F250 - King Ranch	2017	10,000	\$145	B
	11	137057	02/26/18	1100 PENNSYLVANIA AVE, Miami Beach	Ford F250	2006	10,000	\$145	B
	12	140819	04/20/18	1600 WASHINGTON AVE, Miami Beach	Ford F250	2011	10,000	\$145	B
	13	148787	08/31/18	3200 COLLINS AVE	VanHool T2145	2000	50,700	\$300	D
	14	145513	07/07/18	1700 BAY RD, Miami Beach	Freightliner Columbia 120	2007	46,000	\$400	D
	15	146112	07/17/18	8600 COLLINS AVE, Miami Beach	International 7600	2005	33,000	\$400	D
	16	140453	04/14/18	19 NORMANDY DR, Miami Beach	Int. ProStar Premium LF627	2009	32,000	\$400	D
	17	132852	12/19/17	1300 14TH TER, Miami Beach	Int. DuraStar 4300 MA025	2016	25,999	\$400	D
1	18	131230	11/21/17	500 12TH ST, Miami Beach	GMC Savana	2003	9,600	\$145	B
2	19	132278	12/10/17	1411 COLLINS AVE, Miami Beach	Ford Transit 350	2018	9,500	\$145	B
3	20	135327	01/28/18	400 8TH ST, Miami Beach	Ford Transit 350	2015	9,500	\$145	B
4	21	142870	05/26/18	1800 JAMES AVE BLK, Miami Beach	Ford Transit 350	2018	9,500	\$145	B
5	22	147485	08/08/18	000 ISLAND AVE	Chevrolet G30 Express	1997	9,500	\$145	B
6	23	148713	08/29/18	1415 COLLINS AVE	Ford Transit 350	2016	9,500	\$145	B
7	24	130194	11/02/17	7700 ABBOTT AVE, Miami Beach	Chevrolet Express 2500	2013	9,460	\$145	B
8	25	138247	03/16/18	1400 OCEAN CT, Miami Beach	Ford E350	2006	9,400	\$145	B
9	26	128434	10/02/17	300 23RD ST, Miami Beach	Ford E250	2014	9,000	\$145	B
10	27	128522	10/04/17	000 WASHINGTON AVE, Miami Beach	Ford E250	2011	9,000	\$145	B
11	28	131811	12/03/17	318 20TH ST, Miami Beach	GMC Savana 2500	2016	8,600	\$145	B
12	29	141609	05/03/18	1200 OCEAN DR, Miami Beach	Ford E150	2011	8,600	\$145	B
13	30	134285	01/12/18	100 14TH ST BLK, Miami Beach	Chevrolet Express 1500	2007	7,200	\$145	B
14	31	129452	10/20/17	1200 15TH TER, Miami Beach	Ram 1500	2016	6,950	\$145	B
15	32	129517	10/21/17	1400 LINCOLD RD, Miami Beach	Toyota Tundra	2008	6,400	\$145	B
16	33	138576	03/19/18	500 10TH ST, Miami Beach	Chevrolet Express 1500	2004	6,200	\$145	B
17	34	138991	03/24/18	2700 SHERIDAN AVE, Miami Beach	Ford E450	2009	14,500	\$175	C
18	35	145517	07/07/18	1600 LENOX AVE	Ford E450	2010	14,500	\$175	C
19	36	134927	01/21/18	200 6TH ST, Miami Beach	Ford E350	2014	12,500	\$175	C
20	37	128883	10/10/17	1600 WASHINGTON AVE, Miami Beach	Ford Transit 350	2016	9,500	\$175	C
22	39	134449	01/13/18	300 EUCLID CT, Miami Beach	Isuzu NPR	2013	14,500	\$200	D
23	40	134357	01/12/18	700 LENOX AVE BLK, Miami Beach	Ford E450	2004	14,050	\$200	D
24	41	151551	10/19/18	1200 EUCLID AVE	GMC Savana 3500	2018	12,300	\$320	D
26	43	132400	43080.90069	355 19TH ST, Miami Beach	Freightliner M2 106	2018	33,000	200	D
27	44	128516	43012.48125	000 WASHINGTON AVE, Miami Beach	Hino 268	2010	25,950	400	D