

RESOLUTION R-50-10
A RESOLUTION AUTHORIZING THE DISPOSAL
OF CERTAIN SURPLUS PROPERTY

WHEREAS, Section 2-506 of the Wheaton City Code sets forth a procedure for disposal of property found to be surplus; and

WHEREAS, a request to dispose of property described in Exhibit "A" attached hereto and made a part hereof by reference, has been submitted; and

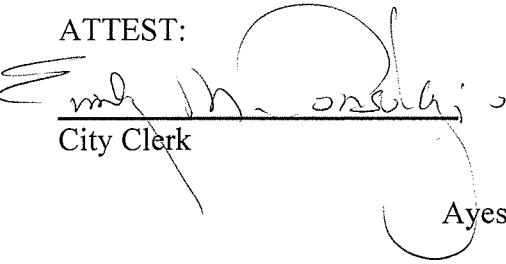
WHEREAS, the City Manager has approved said request and forwarded it to the City Council for authorization.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wheaton, Illinois, that the City Manager is authorized to proceed with disposal of said surplus property in compliance with the provisions of Section 2-506, and is authorized to either advertise for bids, contact directly likely purchasers, and to take other such responsible means to cause the most profitable recovery to the City of Wheaton, or, if unable to sell said property, give said property to any not-for-profit corporation, organization, or entity having its principal place of business or doing a substantial amount of business in the city, at no charge to the recipient or to junk the property at the least possible cost to the city. The City Manager shall report back to the City Council in compliance with paragraph (i) of said Section when all or a majority of said property has been disposed of.

ADOPTED this 7th day of September, 2010.


Mayor

ATTEST:


City Clerk

Ayes:

Roll Call Vote:
Councilman Suess
Councilwoman Corry
Councilman Mouhelis
Mayor Gresk
Councilman Prendiville
Councilman Scalzo

Nays:
Absent:

None
Councilman Levine

Motion Carried Unanimously

MEMORANDUM

TO: Chief Field

FROM: Deputy Chief Meloni

DATE: August 4, 2010

SUBJECT: Forfeited Vehicles

APPROVED AS RECOMMENDED:

MW #802

8/9/2010

Chief Mark W. Field

Date

Please find attached a recommendation from Cmdr Volpe to take the following actions regarding two different vehicles, which have been seized and obtained through forfeiture proceedings.

- The first vehicle is a 2000 Cadillac Escalade (VIN # 3GYEK63R5YR223066). The vehicle was awarded to the department in March of 2009 as part of a Drug Asset Forfeiture case. Our narcotics officers have used this vehicle for narcotic investigations since August 14, 2009. As of August 15, 2010 we will comply with the law in having used the vehicle for one year beyond receipt of the authorization letter from the ISP Director. After August 15, 2010 we may sell this vehicle as long as 100% of the sale proceeds are utilized for narcotics work.
 - The 2000 Cadillac Escalade has a current Blue Book value of 7,500 dollars.
 - The vehicle currently has 115,658 miles on the odometer.
- The second vehicle is a 2002 Cadillac Escalade EXT (VIN# 3GYEK63N12G356430), which was awarded to the department on March 18, 2010 pursuant to an Article 36 seizure. The department may opt to either use or sell this vehicle. If sold 100% of the proceeds become available to the city for the general fund.
 - The 2002 Cadillac Escalade has a current Blue Book value of 12,000 dollars.
 - The 2002 Cadillac Escalade currently has 86,067 miles on the odometer.

Due to the continuing need for on-going narcotics investigations, which strive to maintain the quality of life for our community, I recommend that we sell the 2000 Cadillac Escalade and deposit the proceeds into the drug unit official advanced funds account to be used to purchase narcotics in undercover drug operations. The current balance in the Narco buy fund is \$530.04 and 2,000 dollars cash on hand for buy operations.

I also recommend that we keep the 2002 Cadillac Escalade and utilize it in undercover drug operations. This will provide a newer vehicle, which is in better shape and has less mileage for narcotic operations. Additionally, by changing out the current Narco vehicle we enhance officer safety. (I have reviewed the condition of this 2002 Cadillac with Mo Anderson at public works and he agreed that the vehicle is in excellent condition.)


Thomas E. Meloni
Deputy Chief of Police

MEMORANDUM

TO: *Deputy Chief T. Meloni*

FROM: *Investigative Division Commander J.F. Volpe #302* *IDA* *J* *302*

DATE: *August 2, 2010*

RE: *Forfeited Vehicles: 2000 Cadillac Escalade*
2002 Cadillac Escalade

On March 25, 2009 a 2000 Cadillac Escalade, VIN GYEK63R5YR223066 was awarded to the City of Wheaton pursuant to the Drug Asset Forfeiture Act, 725 ILCS 150/6 (D). We elected to use this vehicle for the enforcement of criminal laws in lieu of selling the vehicle at state auction and receiving 65% of the proceeds from the State of Illinois.

On May 1, 2009 a letter was generated by Commander J. Eversole requesting to use the 2000 Cadillac Escalade for a period of at least one (1) year for the purposes of enforcing criminal laws by the department's Drug Unit. This request was granted by Jonathon E. Monken, the Director of the Illinois State Police on August 14, 2009 (see attached letter). The Wheaton Police Department Drug Unit obtained title and registration for the 2000 Cadillac Escalade and has used this 2000 Cadillac Escalade as a fleet vehicle since the award date of August 14, 2009. Under the Drug Asset Forfeiture Procedure Act, after an awarded vehicle is used for a period of one (1) year or more from the date of the director's letter, the city can sell the vehicle and keep 100% of the proceeds. The proceeds must be used for drug enforcement purposes. The present value of this 2000 Cadillac Escalade is approximately \$7,500.00 (Kelly blue book).

On March 18, 2010, the Wheaton Police Department was awarded a 2002 Cadillac Escalade, VIN 3GYEK63N12G356430 pursuant to 720 ILCS 3/36-2 (commonly referred to as an Article 36 seizure)(see attached award order). This vehicle can be sold *immediately* with 100% of the proceeds awarded to the city *or* maintained as a fleet vehicle for any purpose. The current value of this 2002 Cadillac Escalade is approximately \$12,000.00 (Kelly blue book).

Recommendation

With the above in mind, I recommend the following:

- Sell the 2000 Cadillac Escalade VIN GYEK63R5YR223066 after August 14, 2010 and deposit the proceeds of this sale into the Drug Unit's Official Advanced Funds (OAF) account to be used for the investigation of narcotics-related criminal offenses;
- Add the 2002 Cadillac Escalade to the City of Wheaton's vehicle fleet to be used by the Drug Unit for the enforcement of narcotics-related offenses.



ILLINOIS STATE POLICE
Office of the Director

Pat Quinn
Governor

August 14, 2009

Jonathon E. Monken
Director

Chief Joseph J. Eversole
Wheaton Police Department
900 West Liberty Drive
Wheaton, Illinois 60187

Dear Chief Eversole:

Subject: Case Number WH9011401882

After reviewing your request, I have approved the return of a forfeited 2000 Cadillac Escalade (VIN#1GYEK63R5YR223066) to the Wheaton Police Department. This property was forfeited by the enclosed Declaration of Forfeiture, Number 09-1522, issued in DuPage County on March 25, 2009.

On July 3, 2006, Public Act 94-1004 was enacted, which enables police departments to use conveyances for the enforcement of criminal laws in this state. This is a modification to the previous requirement of ensuring conveyances were used for "official purposes in the enforcement of laws relating to cannabis or controlled substances." However, this modification does not change the use of other forfeited property. In addition, under the new Act, upon disposal of the conveyance, all proceeds from the sale of the conveyance must be used for drug enforcement purposes. While liquidation of the property utilized less than one year may be permissible due to damage or maintenance, the immediate sale or other disposition of this property by your agency is not intended nor authorized by statute.

The award, therefore, is conditioned upon your assurance the conveyance will be used for official purposes in the enforcement of criminal laws of this state. In addition, if your agency does not utilize this property for the purpose outlined in your application for a period of one year, the Illinois State Police (ISP) Asset Forfeiture Section should be promptly notified. Upon this notification, the ISP will sell the property and distribute the proceeds in accordance with the statutory formula.

This award letter neither negates nor satisfies any outstanding lien(s) against the title to this vehicle. Your agency should contact the Illinois Secretary of State to identify any encumbrance which might prevent a title transfer to your agency. If your vehicle has no lien(s), you may apply directly to the Secretary of State for a title. Directions for completing the application process are enclosed.

Sincerely,

A handwritten signature in black ink, appearing to read "J. E. Monken".

Jonathon E. Monken
Director

Enclosures



Wheaton Police Department
900 W. Liberty Drive
Wheaton, IL 60187
630-260-2161; fax 630-260-2154

May 1, 2009

Illinois State Police
Asset Forfeiture Section
801 S. 7th St., Suite 700-A
P.O. Box 19461
Springfield, IL 62794-9461

Re: **2000 Cadillac Escalade**
I.S.P. Seizure No: **103866**
Claimant: **John D. Protis**

The described item(s) were seized by the Wheaton Police Department for the violation of the Controlled Substances Act. Enclosed is a copy of the Declaration of Forfeiture issued by the Office of the DuPage County State's Attorney, pertaining to this forfeiture.

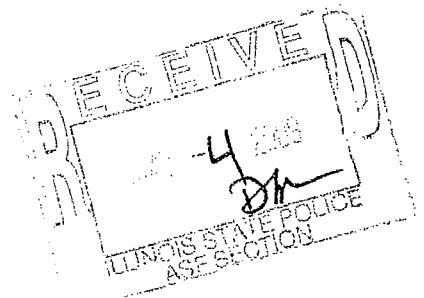
The Wheaton Police Department is requesting to retain the vehicle for at least one year for use by our Narcotics Enforcement Unit.

WPA

Sincerely,

Mark Field
Chief of Police

Joseph J. Eversole
Investigative Division Commander



In Re the Forfeiture of :

2000 CADILLAC ESCALADE (\$8,250.00)
VIN: GYEK63R5YR223066

I.S.P. SEIZURE NO.103866

S.A.O. NO. 09-1522

REPORT NO. WH9011401882

TO: WHEATON POLICE DEPARTMENT
900 W. LIBERTY
WHEATON, ILLINOIS 60187

DECLARATION OF FORFEITURE

Now comes **JOSEPH E. BIRKETT**, DuPage County State's Attorney and hereby declares that:

1] On 01/27/09, the State's Attorney received a Notice of Seizure/Inventory of Seized property of the below described property from Police Department, a law enforcement agency, and;

2] On 01/28/09, a Notice of Pending Forfeiture was given to the owner(s) and/or interest holder(s) of the above-captioned property by certified mail, return receipt requested,

3] The statutory 45-day period set forth in Section (D) of the Drug Asset Forfeiture Procedure Act for responding to the Notice of Pending Forfeiture has passed, and:

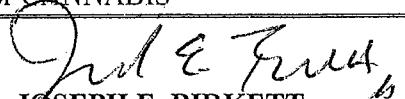
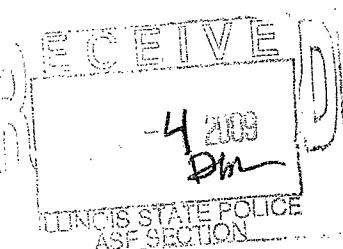
4] No verified claim and cost bond relating to the below property has been filed with the office of the State's Attorney, and;

5] Pursuant to Section 6 (D) of the Drug Asset Forfeiture Procedure Act, the following property is hereby declared forfeited:

EX #	Description (include VIN, serial or model no.)
1	2000 CADILLAC ESCALADE (\$8,250.00)
	VIN: GYEK63R5YR223066
	CONTROLLED SUBSTANCES and/or CANNABIS

DATE: 3-25-09

SIGNED:


JOSEPH E. BIRKETT
 DuPage County State's Attorney




R-50-10 ERA 475

OFFICE OF THE STATE'S ATTORNEY
DuPAGE COUNTY, ILLINOIS

JOSEPH E. BIRKETT
STATE'S ATTORNEY

CASE CLOSING NOTICE - ARTICLE 36 SEIZURE

TO: Angela Smith FAX: 260 2154
AGENCY WIT DATE: 3-18-10 PAGES 2

FROM: ASA Tom Vega, Special Prosecution Unit

COURT CASE: 09 MR 1415

CASE HAS BEEN CLOSED BY:

CONTESTED hearing with: Legal counsel Pro se
 UNCONTESTED hearing - SAO presented evidence and no parties appeared
 AGREED order between parties with: Legal counsel Pro se
 DEFAULT hearing - parties failed to file a claim or respond to notice

VEHICLE DISPOSITION:

LIEN HOLDER RELEASE pursuant to 720 ILCS 5/36-1a
 RELEASE/RETURN Innocent Owner Spouse/Family Owner/Def
 * AWARD TO AGENCY Default Court Ruling Agreement

*** NOTE - VEHICLES AWARDED TO YOUR AGENCY:**

Per Civil Rules of Procedure, persons may file a motion to vacate a forfeiture order within thirty (30) days of the entry of the order. If you obtain a new title and seek to dispose of the vehicle, we suggest you wait more than 30 days before actual disposal.

AWARD ORDER

25

R-50-10

Ex A

New (12/04)

STATE OF ILLINOIS

UNITED STATES OF AMERICA

COUNTY OF DU PAGE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

PEOPLE OF THE STATE OF ILLINOIS

-vs-

2002 CADILLAC

DEFENDANT(S)

CASE NUMBER

09 MR 1415

FAX - Forensic Inv. Unit 407-2355
SEND TO RECORDS UNIT

Date: 3-18-10

Report 09-35627

AWARD ORDER

File Stamp Here

This cause coming on to be heard upon the motion of the _____ and the Court being fully advised in the premises, having jurisdiction in the subject matter, upon a:

ATTY R. SADOWSKI
Forfeiture Hearing (720 ILCS 5/36-2)

Agreed Order of the Parties

GUADALUPE ESCARZENO
Entry of Judgment on Default

Other _____

IT IS HEREBY ORDERED: The listed vehicle, a

2002 CADILLAC

(Year) (Make)

3 G Y E K 6 3 N 1 2 G 3 5 6 4 3 0
(1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17)

1. Vehicle is awarded to WHEATON POLICE (09 0825-6023).
in accordance with 720 ILCS 5/36-2. (09-35627)
2. The Illinois Secretary of State is directed to:

a. Indicate that all right, title and interest in the listed vehicle is terminated immediately against the parties listed on the official title records of the Secretary of State.

b. Accept the application for a Certificate of Title by WHEATON POLICE.

Other Terms or Conditions for Release: _____

Case Closed

Strike future Court date: _____

BY TSV
JOSEPH E. BIRKETT, States Attorney
Attorney No. 50000
503 N. County Farm Road
Wheaton IL 60187
(630) 407-8000

ENTER: _____

DATE: 03-18-2010