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**CITY OF ARNOLD, PLANNING COMMISSION, JULY 23, 2013 MEETING**

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**TO:** THE PLANNING COMMISSION  
**FROM:** MARY P. HOLDEN, COMMUNITY DEVELOPMENT DIRECTOR  
**SUBJECT:** 2013-17, USED CAR SALES LOT – PROPOSED REGULATIONS  
**DATE:** JULY 17, 2013  
**CC:**

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**Summary**

The Planning Commission reviewed the draft revisions at their June 25, 2013 meeting. While certain members felt the proposed regulations were too restrictive majority of the Commission agreed they were necessary and suggested adding to them. Below are the additions in red.

**Previous Staff Report**

Before the start of my tenure at the City of Arnold, used car sales lots were an allowed use and have been since reclassified as a conditional use permit. Now Staff is suggesting additional regulations be placed on used car sales lots due to the existing nature of lots in town regarding the size of the lot in relation to the number of cars placed on the lot, reuse of older, smaller lots and general appearance of the lots.

Our intern did some research and attached is a memo from him outlining suggested regulations such as a minimum and maximum lot size, minimum square footage for a building, vehicles must keep hoods, doors, trunks closed unless being inspected, and current inspection stickers displayed on vehicle.

Staff is recommending the following regulations in addition to numbers 1, 4, 6, 7 and 8 in the attached memo from Matt Dawson:

1. Each car must be parked in a parking stall sized according to our parking dimension table identified in our C-2 and C-3 Commercial District regulations of our Zoning Code.
2. There must be a clear drive aisle of 24 feet wide for two way circulation or 15 feet for one way circulation throughout the site.
3. Customer and employee parking (sized according to our parking dimension table identified in our C-2 and C-3 Commercial District regulations of our Zoning Code) must be provided per our Zoning Code, clearly delineated and signed as such. Vehicles for sale may not be parked in these spots.

4. Vehicles may not be parked closer than twenty (20) feet from the front property line (not be confused with the edge of road).
5. Vehicles may not be parked closer than ten (10) feet from the side or rear property line, unless it abuts residential, than vehicles may not be parked closer than twenty (20) feet.
6. Minimum lot area of ½ acre to a maximum lot area of one acre.
7. A permanent structure with no less than 1,500 square feet for use at the business and sales office.
8. No loud or boisterous sounds shall emit from the place of business at any time from any sound-producing equipment.
9. Vehicles stored outdoors for sales or display shall consist only of operable vehicles with current inspection stickers.
10. All vehicles stored outdoors for sales or display must have all doors, windows, hood and trucks closed at all times unless being inspection.
11. Attention getting devices are not allowed and include but are not limited to lifts displaying vehicles, cars decorated to look like an animal, free standing elephants, roosters, balloons, spinners, etc.

We are looking for Planning Commission input and direction.

# Why Buyers of Used Cars Complain

## *A Study of BBB Complaints Against Used Car Dealers In Eastern Missouri and Southern Illinois*

### Executive Summary



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# Why Buyers of Used Cars Complain

## Introduction

The used car industry is indeed big business. There were 36.5 million used cars sold nationally at a cost of \$292 billion in 2008, according to the U.S. Department of Transportation. But it's an industry that has experienced difficulties as law enforcement officials have filed suit against a few dealers, and complaints to Better Business Bureaus have been perennially high. The used car industry in Eastern Missouri and Southern Illinois has ranked in the top 10 industries for the past four years in terms of complaints filed with the BBB. And nationally, more than 13,000 complaints were filed with BBBs against used car dealers last year, ranking that industry seventh in the most complained about industries. About 14% of 712 rated companies in the St. Louis BBB's database have grades of D or lower on a scale of A+ to F. Law enforcement agencies and the BBB regularly issue warnings and advice to consumers contemplating the purchase of a used car. But the numbers don't tell the complete story, and in an effort to provide a more in-depth look at the complaints and the industry, the BBB has undertaken this study. The study is confined to companies which sell only used cars.

## Sources

The primary source for information was the BBB's complaint processing database regarding used car dealers in Eastern Missouri and Southern Illinois. Other sources include BBB surveys, federal and state laws governing used car sales; the Missouri attorney general's office; the Federal Trade Commission (FTC); shopping by BBB personnel; and Internet websites of companies.

## Methodology

A list of 121 companies with questionable records was drawn from the BBB's database. A total of 795 surveys were sent to consumers who had filed complaints against any used car company in the past three years and who had e-mail addresses. The response rate was 18.7% or 149 returns. The BBB also conducted a telephone survey of consumers who had filed complaints during the past 12 months against the 15 companies with the most complaints in the BBB database. A total of 118 interviews were conducted. Information from the interviews was supplemented with data from the complaints themselves. As the surveys showed 42% chose a certain company because of its advertising, the BBB surveyed any Internet advertising by the 121 used car dealers on the list.

## Bad Buys Bring Hardships to Consumers

The surveys showed that 65% of the respondents, attracted by relatively cheap cars and questionable advertising, were drawn to a company because of their credit problems. But for many of them, the purchase resulted in more problems. Fifty respondents to the telephone survey said they had lost an average of \$1,044 because they had to pay for repairs or lost the down payments when they could not afford repair costs. Four respondents said they were fired and nine other respondents said they experienced difficulty in getting to their jobs because of problems they experienced with the car within 30 days of purchasing it. They reported paying for taxis, car rentals, rides from co-workers and the bus. Nineteen respondents reported that they simply turned the car in to the dealer when they couldn't afford repairs, usually losing their down payments in the process. A total of 29% of the respondents to the surveys reported that their newly purchased cars were repossessed.

## Repairs Are Lacking for Some Buyers

The primary reason cited by consumers for their complaints to the BBB is that dealers don't make repairs on cars the customers purchased. The problem is particularly critical for buyers of cars that have no warranty. Forty-two percent of the respondents to the surveys said the cars they bought had no warranty. Respondents said their cars needed repairs ranging from a new motor to failure to pass emissions testing to a leaking sunroof an average of 28 days after purchase. And in 32 of the 33 such cases reported, the dealer refused to make repairs.

## **Warranties - What's Covered & How Long?**

Buyers also had difficulty obtaining repairs they believed should have been covered under warranties. Warranties were issued to many consumers when they purchased used cars (about half of all respondents said the car had a warranty). But in many cases the warranties were very limited. Many were for 30 days or 1,000 miles and required the dealer to pay only half of the repair costs for limited types of malfunctions. Or the warranty specified that the consumer would pay for parts and the labor would be free. Respondents to the surveys complained that the dealers refused to honor even such limited warranties, or the dealers indicated that needed repairs were beyond the scope of the warranty. Of the purchasers surveyed, 52% said the company refused to make repairs that they believed should have been covered by the warranty. However, there are indications that some consumers were unaware of what a warranty covered, its duration and what percentage of the cost of repairs the dealer was required to pay under the warranty. It's unknown how often this might have been due to the buyer not examining the warranty closely or to a salesman overstating the warranty coverage.

## **What You See Is Not What You Get**

As indicated previously, 42% of consumers surveyed chose a certain company because of its advertising, and 60% of those felt the advertising was misleading. A BBB survey of those dealers on the list of 121 dealers showed that 46 of the companies have Web sites and 17 of them or 37% contained misleading advertising as defined by the BBB's Code of Advertising or federal and state regulations. The primary violation was the guarantee of credit to any purchaser regardless of credit history. They included phrases such as:

- "Everyone is approved here!"
- "WE FINANCE ANYONE!"
- "Guaranteed Credit Approval . . . 100% CREDIT APPROVALS"
- "Guaranteed Financing . . . Loans Available for EVERYONE."

But some consumers filing complaints with the BBB found that such advertising did not tell the whole story. A woman responding to one of the ads said she was denied credit because she would have to pay half the price of the car as a down payment before credit would be approved. Another said she was denied credit because she was required to make a down payment of \$2,500 before she could be financed, and still another said she was denied credit because she did not have \$1,500 to put down.

Nearly half of the respondents who said advertising was the main reason for choosing a company saw the ads on TV. Other sources were radio, flyers, newspaper and advertising on the car lot. The main reason these respondents felt the ads were misleading was credit promises.

## **State and Federal Laws**

The FTC's Used Car Rule requires dealers to post Buyers Guides prominently in all vehicles that are offered for sale. The Guides must indicate whether a warranty is offered. If a warranty is offered the exact terms must be spelled out—duration of the warranty; what parts are covered; and whether the dealer will pay only a certain percentage of the repair costs. A copy of the guide must be given to the purchaser.

In Missouri, sellers of five or more used cars annually are required to provide safety inspections at the time of sale at the dealer's expense. The safety inspections do not guarantee the worthiness of the cars. Dealers are prohibited from selling a car that will not pass emissions testing in certain counties, including the St. Louis metropolitan area. If a car is sold and fails to pass emissions testing the dealer must make the repairs so that it will pass or reach a settlement with the purchaser that is agreeable to both parties. An exception to this is if the customer signs a "junk" or "salvage" affidavit. However, in that case the customer can't operate the vehicle until it has passed inspections. The car must either be towed off the lot or repaired on the spot.

In November 2009, Missouri Attorney General Chris Koster announced suits against seven used car dealers in Missouri. Alleged violations included:

- Selling vehicles without required safety inspections.

- Issuing temporary tags on vehicles sold with junk or salvage affidavits.
- Requiring customers to sign affidavits stating the cars were not for immediate transportation, many times without the customers' knowledge that the affidavit was part of the purchase documents.

In Illinois, dealers are required to pay 50% of the cost of repairs needed within 30 days of purchase if the car is less than three years old. The percentage decreases with the age of the car and the law is not applicable for cars over four years old. Emissions inspections are required of all cars every two years. Consumers who are required to have their vehicles tested are notified of such by mail. There is no charge for the inspection. Safety inspections are only required for heavier vehicles and those which carry more than 10 passengers.

### **Many Customers Are Confused**

It is apparent from the surveys that consumers are ill-informed regarding local and federal laws governing the sale of used cars. Although 42% of respondents noted that companies in Missouri did not provide safety and emissions inspections, 27% said they did not know whether they signed a junk affidavit. Regarding Buyers Guides, 20% of the respondents said they did not know whether the guides were posted prominently on the cars offered for sale and 17% said they did not know whether they were given a copy of the guide when closing the deal, both of which are required by law.

### **Buyers Guides**

While Buyers Guides may seem commonplace, they are an important part of any vehicle transaction. The FTC's Used Car Rule "requires that used car dealers post a one-page Buyers Guide in each car to ensure that consumers get information in writing about the warranty protection they have if there is a problem with the car after they buy it." In five sweeps of metropolitan areas—the latest in 2001 in New York—the FTC inspected car lots to determine whether there were violations of the Used Car Rule. In the sweeps in New York, Chicago and Los Angeles the FTC inspected 2,065 used cars for sale and found that 35% had no Buyers Guides posted. In a six-year period, the FTC obtained civil penalties of more than \$1 million for violations of the Used Car Rule.

In the BBB surveys, 42% of respondents said that Buyers Guides were not visible when they were shopping, nor were they given a copy of the Buyers Guide when closing the deal. BBB staff members "shopped" six of the dealers named by consumers. At one lot, Buyers Guides were visible on only two of about 20 cars, while at another lot only half of about fifty vehicles displayed Buyers Guides. Only a few of the cars for sale at the four other dealers were missing Buyers Guides.

### **Companies With Many Complaints**

The following companies are those with the most complaints in the BBB's database and which have a rating of D or lower. These companies were among those that were the subjects of the telephone survey. The figures in bold indicate the number of complaints in the past three years with the rating in parentheses. They are listed in the order of the number of complaints. The figures are as of the date of this publication.

- **Ken's American Motors**, 3001 Camp Jackson Rd., East St. Louis, Ill. - **126 (F)**
- **Car Credit City**, 12750 St. Charles Rock Rd., Bridgeton, Mo. - **64 (D)**
- **Insta Credit Auto Mart**, 1690 Magnolia Dr., O'Fallon, Mo.; 910 N. Bluff Rd., Collinsville, Ill., and 1807 W. Highway 50, O'Fallon, Ill. - **52 (F)**
- **A & E Auto Sales**, 3338 Camp Jackson Rd., East St. Louis, Ill. - **50 (F)**
- **St. Louis Car Credit**, (a/k/a Preowned Auto Sales), 2111 and 2766 Gravois Ave., St. Louis, Mo. - **43 (F)**
- **Auto Centers of St. Louis**, 1350 N. Lindbergh Blvd., Florissant, Mo. - **41 (D)**
- **Auto Buy Credit**, 10250 W. Florissant Ave., and 4101 Chippewa St., St. Louis, Mo. - **31 (F)**
- **Auto Depot LLC**, 10059 St. Charles Rock Rd., St. Ann, Mo. - **30 (F)**
- **Auto Credit Mart LLC**, 8440 St. Charles Rock Rd., St. Louis, Mo.- **28 (D)**
- **Paylater Auto Sales**, 2916 Camp Jackson Rd., East St. Louis, Ill. - **28 (F)**
- **Cahokia Motors Inc.**, 2600 Camp Jackson Rd., Cahokia, Ill. - **23 (F)**

## **Conclusions**

Some used car dealers in Eastern Missouri and Southern Illinois are taking advantage of the economically disadvantaged by selling relatively cheap cars that don't last 30 days at a significant cost to the consumers. Many of the buyers of these cars lack knowledge of their rights under the law. They often wind up in worse shape than they started. Often, after a car develops significant problems, consumers are hard-pressed to have the dealers make repairs at the dealers' expense. According to some consumers, a few dealers are ignoring federal and state laws designed to protect the consumer or are skirting those laws. Efforts by officials to enforce laws that are already on the books appear sporadic at best.

## **Recommendations**

- That the various agencies with the responsibility of enforcing consumer protection laws and laws governing the sale of used cars be more vigorous in their enforcement of those laws.
- That the numerous consumer protection agencies, trade associations and others, including the BBB, step up efforts to educate the public, particularly those of less means, regarding their rights in buying used cars, the advisability of obtaining a third party mechanic's inspection before buying a used car and the fact that the three-day window in which to cancel some purchases typically does not apply to purchases made at the company's premises, in this case the used car dealership.
- That the same agencies also increase efforts to inform sellers of used cars of their obligations under the various laws involved in selling used cars.
- That the Missouri Legislature consider tightening the statutes governing the sale of used cars regarding emissions testing to require that used car dealers provide at their expense completed emissions testing certificates, as is now required regarding safety inspections.
- That regulation or legislation be considered by the appropriate Missouri authorities to prohibit dealers who sell used cars only from performing safety or emissions inspections on a used vehicle sold by the same dealer.

Robert H. Teuscher  
BBB Researcher  
December, 2010



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