

§ 274.6

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(c) The owner of a seized conveyance shall be informed of the right to request a personal interview with an immigration officer and to present evidence to establish:

(1) That the conveyance was not subject to seizure; or

(2) That the conveyance is not subject to forfeiture; or

(3) That the conveyance was used in an act to which the owner was not privy, or did not consent, and the owner took all reasonable steps to prevent the illegal use of the conveyance.

If it is determined that the owner has established that paragraphs (c)(1) or (c)(2) of this section apply to the seized conveyance, that seized conveyance shall be returned to the owner as provided in paragraph (e) of this section; and if it is determined that the owner has established that paragraph (c)(3) of this section applies to the seized conveyance, that seized conveyance may be returned to the owner as provided in paragraph (d) of this section.

(d) At any time after seizure the regional commissioner may determine that it is in the best interests of justice not to pursue forfeiture of a seized conveyance which is otherwise subject to forfeiture. If such a determination is made, that seized conveyance shall be returned to the owner as provided in paragraph (e) of this section.

(e) The owner of a seized conveyance to be returned pursuant to paragraphs (c) or (d) of this section will be notified of the conditions of obtaining possession and that possession of the seized conveyance must be taken within 20 days of receipt of notice of the availability of the seized conveyance for return. If the owner has not complied with the conditions of obtaining possession and taken possession of the seized conveyance within that 20 day period, that seized conveyance shall be considered voluntarily abandoned to the United States, and the custodian shall dispose of that seized conveyance as provided in §274.3 of this part. The conditions of obtaining possession of a seized conveyance available for return pursuant to paragraphs (c) and (d) of this section are as follows:

(1) If paragraph (c)(1) of this section applies to the seized conveyance, there

shall be no conditions for obtaining possession;

(2) If paragraphs (c)(2), (c)(3), or (d) of this section apply to the seized conveyance, the owner shall pay all costs and expenses of seizure and shall execute an instrument holding the United States, its agents and employees, harmless from all claims which may result from the seizure and return of the seized conveyance.

(f) If a seized conveyance being returned to the owner pursuant to this section is the subject of judicial forfeiture proceedings, the regional commissioner shall notify the United States Attorney that a determination has been made that the seized conveyance is to be returned to the owner and request that the judicial forfeiture proceedings be terminated.

§ 274.6 Proof of property interest.

The burden of proof is on a claimant to establish that the asserted property interest in a seized conveyance existed on the date of seizure of that conveyance by submission of sufficient satisfactory original documentation or certified copies of the original documentation. If the claimant fails to present documentation showing compliance with required state formalities it will be presumed that a property interest in a seized conveyance did not exist on the date of seizure of that conveyance.

§ 274.7 Appraisal.

The regional commissioner shall determine the appraised value of a seized conveyance by consulting accepted reference guides to conveyance values or experts in conveyance values. If there is no market for a conveyance at the place of seizure, the value of the conveyance in the principal market nearest the place of seizure shall be considered.

§ 274.8 Notice to owner and lienholder of seizure.

Whenever a conveyance is seized, a notice must be given to the owner and any known lienholder notifying them of the seizure of the conveyance and its consideration for forfeiture. The notice must be accompanied by copies of this part, section 274 of the Act, and the