

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
PROVIDENCE, Sc. **DISTRICT COURT**
SIXTH DIVISION

Mark Ramos :
 :
 v. : **A.A. No. 2019 – 039**
 :
 Rhode Island Division of Motor Vehicles :
 (Adjudication Office) :

ORDER

This matter is before the Court pursuant to § 8-8-8.1 of the General Laws for review of the Findings and Recommendations of the Magistrate.

After a de novo review of the record, the Court finds that the Findings and Recommendations of the Magistrate are supported by the record, and are an appropriate disposition of the facts and the law applicable thereto. It is, therefore,

ORDERED, ADJUDGED AND DECREED

that the Findings and Recommendations of the Magistrate are adopted by reference as the decision of the Court and the decision rendered by the Division of Motor Vehicles in this case is hereby AFFIRMED.

Entered as an Order of this Court at Providence on this 18th day of February, 2020.

By Order:

_____/s/_____
Stephen C. Waluk
Chief Clerk

Enter:

_____/s/_____
Jeanne E. LaFazia
Chief Judge

STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS
PROVIDENCE, Sc.

DISTRICT COURT
SIXTH DIVISION

Mark Ramos

v.

R.I. Division of Motor Vehicles
(Adjudication Office)

:
:
:
:
:
:

A.A. No. 2019 – 039

FINDINGS AND RECOMMENDATIONS

Ippolito, M. Like many states, Rhode Island maintains a system of motor vehicle title registration.¹ By displaying the names of the true owners of motor vehicles (and lien holders, if any) on “certificates of title,”² such systems are intended to prevent motor vehicle purchasers from being the victims of larceny and fraud.³ With certain exclusions, all Rhode Island vehicles are required to have titles.⁴

¹ See 76 Am. Jur. 2d *Automobiles*, § 30 (November, 2019 Update) (citing *Merchants Rating & Adjustment Co. v. Skaug*, 102 P.2d 227 (Wash. 1940)).

² *Id.* (citing, *inter alia*, *Hicks v. Thomas*, 516 So.2d 1344 (Miss. 1987)).

³ *Id.* (citing, *inter alia*, *Concord General Mut. Ins. Co. v. Sumner*, 762 A.2d 849 (Vt. 2000)).

⁴ See G.L. 1956 § 31-3.1-1(a) (for main rule) and G.L. 1956 § 31-3.1-2 (for

In this appeal, Mr. Mark Ramos urges that the Rhode Island Division of Motor Vehicles (the DMV) erred when, after a hearing, it decided that he was not entitled to an unrestricted or “clean” title for a motor vehicle that he owns. Jurisdiction for the instant appeal is vested in the District Court by G.L. 1956 § 31-3.1-36⁵ and the applicable standard of review is found in G.L. 1956 § 42-35-15(g). This matter has been referred to me for the making of findings and recommendations pursuant to G.L. 1956 § 8-8-8.1. After a review of the entire record I find, for the reasons explained below, that the decision which was rendered in Mr. Ramos’s case should be AFFIRMED. I so recommend.

I

FACTS AND TRAVEL OF THE CASE

A

The Application, the Issuance of the Title, and its Revocation

The current controversy began in this way. On April 10th,⁶ Mr. Mark Ramos, a Rhode Island resident, purchased a 2008 Infiniti

exceptions). Note — § 31-3.1-1(a) is presented *post*, at 12-13.

⁵ This section specifically authorizes this Court to hear appeals from DMV decisions regarding certificates of title. Another provision, G.L. 1956 § 31-2-19, authorizes us to hear DMV appeals more generally.

⁶ From my reading of the record, it appears that all events at issue in this case occurred in 2019; and so, for the sake of brevity, all dates given in this opinion refer to 2019, unless a contrary date is clearly expressed.

G35 from an on-line automotive auction house, GO2Auctionsnow.com.⁷ Earlier the same day, the auction house had purchased the vehicle from the Liberty Mutual Insurance Company, which, in turn, had acquired the vehicle from its insured, a Bostonian, on January 25th.⁸ Mr. Ramos brought the vehicle to his home in Tiverton.⁹

Then, on April 30th, Mr. Ramos proceeded to the main office of the DMV in order to obtain a title for the vehicle.¹⁰ In support of his application,¹¹ Mr. Ramos presented three documents: (1) a Verification of Identification Number form completed by the Little Compton Police Department;¹² (2) a Massachusetts Registry of Motor Vehicles Assignment and Authorization for Payoff of a Salvage Motor Vehicle;¹³ and (3) a Massachusetts Certificate of Title for the Infiniti.¹⁴ Mr. Ramos

⁷ *Decision of the Hearing Officer*, at 1, 3; these passages may be found in the electronic record attached to this case (hereinafter *ER*), at 4, 6.

⁸ *D Decision of Hr's Officer*, at 3; *ER*, at 6.

⁹ *Decision of Hr's Officer*, at 2; *ER*, at 5.

¹⁰ *Decision of Hr's Officer*, at 1; *ER*, at 4. *See also*, *Investigative Report of F. Cavallaro*, (hereinafter "Report"), Exhibit No. 1; *ER*, at 11.

¹¹ *See Application*, Ex. No. 2; *ER*, at 12-13.

¹² *DMV's Mem.* at 1. *See also*, Ex. No. 4; *ER*, at 15.

¹³ *Id.* *See also*, Ex. No. 3; *ER*, at 14.

¹⁴ *Id.* *See also*, Exs. Nos. 5 and 5(a); *ER*, at 16-17. The certificate of title showed that ownership of the vehicle had passed from its prior owner to the

was referred to the Enforcement Office for a review of his application.¹⁵

Because the vehicle had been declared a total loss in January, Mr. Ramos was informed by officers of the Enforcement Office that he would be required to proceed under Rhode Island's salvage process.¹⁶ In response, Mr. Ramos asserted that he was entitled to a "clean" certificate of title.¹⁷ On this point, the officers and Mr. Ramos quickly reached an impasse.

At Mr. Ramos's insistence, he was referred to the DMV's administration, where a copy of all his documentation was made; he was then told he would be notified of the DMV's decision at a later date.¹⁸ And, a week later, on May 6th, Mr. Ramos received what was undoubtedly pleasing news from Counsel for the DMV — that he would be issued a clean title for the Infiniti when he next presented himself at

Liberty Mutual Insurance Company on January 25th, to GO2Auction-snow.com on April 10th, and, finally, to Mr. Ramos, on that same day. *Id.*

¹⁵ *DMV's Mem.* at 2. *See also, Report, id.*

¹⁶ *DMV's Mem. id.* *See also, Report, id.*

¹⁷ *Id.* *See also, Report, id.* When the enforcement officer was speaking to Mr. Ramos, it was revealed that he had 16 cars registered in his name. *Report, id.* He explained that he rented-out the vehicles through a website called turo.com. *Id.* He later confirmed these statements in his testimony before the DMV Hearing Officer on June 4th. *Decision of Hr'g Officer*, at 4; *ER*, at 7.

¹⁸ *DMV's Mem.* at 2. *See also, Report, id.*

the DMV; he did so later that day and received his title.¹⁹

But, Mr. Ramos's pleasure was short-lived. After an internal discussion, the officials of the DMV reversed their decision and issued a Notice of Title Revocation regarding the Infiniti on May 7th.²⁰ When he received it, Mr. Ramos contacted the DMV; thereafter, a hearing was scheduled for June 4th.²¹

B

The Hearing

On June 4th, Mr. Ramos appeared at the DMV for his hearing and made oath as to the truth of the testimony he would give.²² He told the Hearing Officer that he purchased the Infiniti from a members-only auction-site which sells vehicles which have suffered extensive damage.²³ Mr. Ramos testified that he purchased the vehicle (still in its damaged state) and, as of the date of the hearing (June 4th), it was in the process of being repaired.²⁴ He indicated, based on his thirteen

¹⁹ *Decision of Hr's Officer*, at 3-4; *ER*, at 6-7. Also, *DMV's Mem.* at 2.

²⁰ *Decision of Hr's Officer*, at 4; *ER*, at 7.

²¹ *Id.*

²² *Decision of Hr's Officer*, at 1; *ER* at 4.

²³ *Decision of Hr's Officer*, at 1-2; *ER*, at 4-5.

²⁴ *Id.* at 2; *ER*, at 5.

years of experience as a master automotive service mechanic for Mercedes-Benz, that he was well-qualified to repair and rebuild the vehicle — even though he did not possess a license for salvage vehicle repair or even general auto-body repair.²⁵ He also described his contacts and communications with the officials of the DMV.²⁶

Mr. Ramos then presented his legal arguments. He noted that the vehicle was previously titled in Massachusetts; and so, he asserted that, under Section 20B of Chapter 90D of the Massachusetts General Laws, the Infiniti is exempt from the salvage title process because the vehicle is over ten years old.²⁷ Thereafter, he posited that, under G.L. 1956 § 31-46-3, Rhode Island's salvage law did not apply to his Infiniti because it is more than seven years old.²⁸

²⁵ *Decision of Hr'g Officer*, at 2; *ER*, at 5.

²⁶ *Decision of Hr'g Officer*, at 3-4; *ER*, at 6-7.

²⁷ *Id.* at 2-3; *ER*, at 5-6.

²⁸ *Id.* *ER, id.* In pertinent part, § 31-46-3 provides:

§ 31-46-3. Salvage by non-insurer. — If the total cost of repairs to rebuild or reconstruct the motor vehicle to its condition immediately before it was wrecked, destroyed or damaged, and for legal operations on the roads or highways, exceeds seventy-five percent (75%) of the fair market value of the motor vehicle immediately preceding the time it was wrecked, destroyed or damaged, and the motor vehicle is less than seven (7) years beyond the date of manufacture, the owner shall return within ten (10)

Conversely, the DMV advanced the position that a salvage title was required by Chapter 46 of Title 31 of the General Laws, entitled “Rhode Island Salvage Law.”²⁹

C

The Decision of the Hearing Officer

As she began the analysis portion of her decision, the Hearing Officer commented on Mr. Ramos’s invocation of Massachusetts law; she indicated that, since he is not a dealer, Mr. Ramos has no further need for a Massachusetts title.³⁰ Nevertheless, she reported that she had learned, through contact with an official with the Massachusetts registry, that if Mr. Ramos had, after it was repaired, registered the car in the Commonwealth, the title would have been branded as “Collision.”³¹

days to the division of motor vehicles, the certificate of title of that vehicle and obtain a salvage certificate of title for that vehicle as prescribed for by the administrator of the division of motor vehicles. ...

²⁹ *Decision of Hr’g Officer*, at 2, 3; *ER*, at 5, 6.

³⁰ *Decision of Hr’g Officer*, at 3; *ER*, at 6.

³¹ *Id.*

Then, the Hearing Officer related the pertinent provisions of Rhode Island law.³² Among the first she cited was a regulation promulgated by the Department of Business Regulation (DBR) pursuant to its duty to license and regulate those who repair salvage vehicles.³³ Regulation 230-RICR-30-05-2.3 defines the term “salvage vehicle” to be “a motor vehicle declared to be a total loss” because of damage or theft.³⁴ The Hearing Officer also cited 230-RICR-30-05-2.4, which requires that all motor vehicle body work and salvage vehicle repairing be done by licensees.³⁵

The Hearing Officer then noted that Mr. Ramos, as of the time of the hearing, was neither a body work/salvage repair licensee nor a technician employed by such a licensee.³⁶ Accordingly, she found that he was subject to the provisions of § 31-46-7, which declares:

(a) A salvage rebuilders’ license shall be established and issued to all licensed auto body repair facilities that qualify under established guidelines. The regulations shall outline equipment and training necessary to rebuild (total loss) salvage vehicles prior

³² *Decision of Hr’g Officer*, at 4; *ER*, at 7.

³³ *See* G.L. 1956 §§ 5-38-1, 5-38-2, 5-38-7, and 31-46-7.

³⁴ *Decision of Hr’g Officer*, at 5; *ER*, at 8.

³⁵ *Id.*

³⁶ *Id.*

to the issuance of a certificate of salvage title by the division of motor vehicles under § 31-46-4. The guidelines shall be promulgated by and the license shall be issued by the department of business regulation.

(b) No company, corporation, business or person(s) shall rebuild salvage vehicles unless in possession of a valid salvage rebuilders license.

(c) Any vehicle repaired or rebuilt by person(s) not in possession of this license shall have its title stamped "For Parts Only."

(d) Any company, agency or person(s) found in violation of this section shall be guilty of a felony and shall be punished by imprisonment for not more than two (2) years, or a fine of five thousand dollars (\$5,000), or both.

(e)³⁷

The Hearing Officer found that Mr. Ramos was in violation of these provisions of § 31-46-7, and also §§ 31-46-2 and 31-46-3.³⁸ She further noted that § 31-46-4 requires that a salvaged vehicle which has been reconstructed to roadworthiness be given a title with the endorsement "Re-constructed Salvage" imprinted thereon.³⁹ The Hearing Officer next

³⁷ *Decision of Hr's Officer*, at 5-6; *ER*, at 8-9.

³⁸ *Decision of Hr's Officer*, at 6; *ER*, at 9.

³⁹ *Id.* Section 31-46-4 provides:

If a motor vehicle is restored for operation on the highways, application shall be made to the division of motor vehicles for a certificate of title. Upon inspection by the division of motor vehicles, which shall include establishing proof of ownership, and upon the surrender of

alluded to § 31-46-7(c) — though she did not expressly cite the subsection. By doing so, she revealed the ultimate futility of Mr. Ramos’s situation, which is this — since Mr. Ramos does not hold a license to perform auto body or salvage repair work, any vehicle he repaired, notwithstanding his expertise and experience, would be restricted to a “parts only” title, and could never be registered.⁴⁰

The Hearing Officer also expounded on the purpose of the salvage law, which is, in her view, to protect consumers from unknowingly purchasing a vehicle which had endured a devastating accident. And so, based on the foregoing, the Hearing Officer found Mr. Ramos was not entitled to a clean title.⁴¹

On July 1st the Hearing Officer’s decision was adopted by the Chief of the Adjudication Office of the DMV, as the final order of the

the salvage certificate of title, the division of motor vehicles shall issue a certificate of title for a fee prescribed by the administrator of the division of motor vehicles. The certificate of title shall be in the same form and color as the original certificate and bear the same number as the salvage certificate and the original certificate and shall bear the word “Re-constructed Salvage” on the title. ...

⁴⁰ *Decision of Hr’g Officer*, at 7; *ER*, at 10. See § 31-46-7(c), *ante*, at 8.

⁴¹ *Id.*

DMV.⁴² On July 8th, Mr. Ramos filed the instant appeal in the Sixth Division District Court. Memoranda have been received from Mr. Ramos and the DMV.

II

LAW APPLICABLE TO THE CASE

A

Standard of Review — Administrative Procedures Act

The standard of review which this Court must employ is enumerated in G.L. 1956 § 42-35-15(g), a provision of the Rhode Island Administrative Procedures Act (APA), which provides as follows:

(g) *Standard of review.* The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The district court judge may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if the substantial rights of the appellant have been prejudicial because the administrative findings, inferences, conclusions or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error of law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

⁴² See Letter of Mr. M.L. Kinch to Mr. M.A. Ramos, July 1, 2019, ER at 2.

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Under the APA standard, the District Court “* * * may not substitute its judgment for that of the agency and must affirm the decision of the agency unless its findings are ‘clearly erroneous.’”⁴³ Thus, the Court will not substitute its judgment for that of the agency (here, the Chief of the Adjudication Office) as to the weight of the evidence on questions of fact.⁴⁴ Stated differently, the findings of the agency must be upheld even though a reasonable mind might have reached a contrary result.⁴⁵

B

Substantive Law: Pertinent Provisions of the Motor Vehicle Code

1

Certificates of Title

By the clear mandate of G.L. 1956 § 31-3.1-1(a), all motor vehicles being kept in Rhode Island must have certificates of title; the law states:

(a) Except as provided in § 31-3.1-2, every owner of a vehicle which is in this state and for which no

⁴³ *Guarino v. Department of Social Welfare*, 122 R.I. 583, 588, 410 A.2d 425, 428 (1980) (citing § 42-35-15(g)(5)).

⁴⁴ *Cahoone v. Board of Review of the Department of Employment Security*, 104 R.I. 503, 506, 246 A.2d 213, 215 (1968).

⁴⁵ *Id.*, 506-07, 246 A.2d at 215.

certificate of title has been issued by the division of motor vehicles shall make application to the division for a certificate of title of the vehicle.

Mr. Ramos does not fall within any of the exceptions listed in § 31-3.1-2.

A second provision of Chapter 31-3.1 is also pertinent to this case — § 31-3.1-25(a), which specifies the grounds for which a certificate of title may be suspended or revoked; it provides as follows:

(a) The division of motor vehicles shall suspend or revoke a certificate of title, upon notice and reasonable opportunity to be heard in accordance with § 31-3.1-36, when authorized by any other provision of law or if it finds:

(1) The certificate of title was fraudulently procured or *erroneously issued*;

(2) The vehicle has been scrapped, dismantled or destroyed; or

(3) Upon request of the tax administrator after notice and reasonable opportunity to be heard by the tax administrator, that the taxes specified in § 31-3.1-10(4) have not been paid. (Emphasis added)

2

Substantive Law Regarding Salvaged Vehicles

Ultimately, this case turns on the application of, or more precisely, the *applicability* of, Rhode Island's Motor Vehicle Salvage law, which is found in Chapter 31-46 of the General Laws. As we will see *post*, the eight statutes that comprise the Chapter together establish

a sequence of duties to which insurance companies and vehicle-owners must adhere during each step of the motor vehicle salvage process. Because I shall be required to examine each provision in Part III of this opinion, I shall defer any discussion of those statutes until that point.

C

Substantive Law: Regulations Promulgated by the DMV

Also pertinent to the resolution of case is a regulation, 230-RICR-30-05-2.3, which defines a number of terms which are used in Chapter 31-46.⁴⁶ Clearly, the most significant of these to this case is the regulation's definition of the term "salvage vehicle":

"Salvage Vehicle" means a Motor Vehicle declared to be a **total loss** because of:

- a. Damage to such a Motor Vehicle; or
- b. Settlement of a claim for damage or theft, whether or not it is an owner retained Motor Vehicle.

(Emphasis added).⁴⁷

Accordingly, a determination that an automobile has become a "salvage vehicle" may be based on either (1) a finding that it is a total loss based

⁴⁶ This regulation was promulgated by the Department of Business Regulation pursuant to the authority vested in it by G.L. §§ 5-38-1, 5-38-2, 5-38-7, and 31-46-7. See 230-RICR-30-05-2.1 (Authority).

⁴⁷ Cited in *Decision of Hr'g Officer*, at 5; *ER*, at 8.

on damage it suffered⁴⁸ or (2) a finding that an insurance company has settled a claim for total loss, or both.⁴⁹ But Rhode Island does not have a

⁴⁸ While Rhode Island is in no way bound by the definitions of “salvage vehicle” employed in the statutes of our sister states, it is still perhaps worth mentioning that such definitions commonly require a computation of whether the cost to repair the vehicle exceeds its value, or a designated percentage thereof. *See Storie v. Randy’s Auto Sales, LLC*, 926 N.E.2d 487, 487-88 (Ind. 2010) (citing Ind. Code § 9-22-3-3(b), which requires a salvage title for a vehicle owned by a self-insured business if the cost of repairing it “exceeds seventy percent (70%) of the fair market value immediately before [it] was wrecked or damaged.”); *Mulder v. State, Dep’t of Transportation*, 565 N.W.2d 348, 350 n.3 (Iowa, 1997) (citing I.C.A. § 321.52(4)(d), which defines “wrecked or salvage vehicle” as being one where the cost of repair exceeds 50% of the fair market value); *Martinez v. Enterprise Rent-A-Car Company*, 13 Cal. Rptr.3d 857, 861 (Cal. App. 2004) (citing West’s Ann. Cal. Vehicle Code § 544); *Holmes v. American States Insurance Co.*, 1 P.3d 552, 556 (Utah. App. 2000) (citing Utah Code Ann. § 41-1a-01001(6)(a) (1998)).

⁴⁹ Provisions permitting deference to the determination of an insurance company regarding whether a vehicle has been reduced to salvage status have also been enacted in our sister states. *See Storie, ante, id.* (citing Ind. Code § 9-22-3-3(a), which requires a salvage title for a vehicle if “[a]n insurance company has determined that it is economically impractical to repair the wrecked or damaged motor vehicle ... and has made an agreed settlement with the insured or claimant[.]”); *Mulder, ante*, 565 N.W.2d at 350 n.1 (citing I.C.A. § 321.52(4)(a), which deems a vehicle which has been obtained by an insurance company to be a “wrecked or salvage vehicle.”); *Holmes, ante*, 1 P.3d at 556 (quoting § 41-1a-01001(6)(b)); *Martinez, ante, id.* (citing West’s Ann. Cal. Vehicle Code § 544); *Allen v. American Security Insurance Co.*, 280 S.E.2d 471, 472 (N.C. App. 1981) (citing G.S. 20-109.1(a)); *Colorado Auto & Truck Wreckers Association v. Dep’t of Revenue*, 618 P.2d 646, 649 (Colo.1980) (citing § 42-6-134 and a related enforcing regulation, 1 C.C.R. 204-2(b), which, taken together, define a salvage vehicle to be one for which an insurance carrier has made a total loss settlement).

provision permitting reliance on another state's finding that a vehicle has been reduced to salvage status, as other states do.⁵⁰

This definition set forth in this regulation is crucial to this case because the term "salvage vehicle" is not *expressly* defined in Chapter 31-46, although the Chapter does contain some hints at its meaning.

For instance, in § 31-46-7(a), the term "salvage vehicles" is preceded by the parenthetical term "(total loss)," suggesting an equivalence or relationship (of some degree) between the two terms. And, in § 31-46-1.1,⁵¹ "salvage vehicles" are divided into two

⁵⁰ See *Indiana Bureau of Motor Vehicles v. Schneider*, 136 N.E.3d 270, 273-74 (Ind. Ct. App. 2019) (Applying Ind. Code § 9-22-3-18, which expressly bars vehicles previously designated as "JUNK," "DISMANTLED," "SCRAP," "DESTROYED," etc., in another jurisdiction, from being titled in Indiana.), *Holmes, ante*, at 556 (quoting Utah Code Ann. § 41-1a-01001(6)(b)), and *In re Wright*, 397 S.W.3d 924, 926 (Mo. Ct. App. 2013) (Complaint dismissed on procedural grounds because complainants failed to follow administrative review process; Court references, in passing, V.A.M.S. 301.227.3, which forbids the issuance of any title to any vehicle which has been declared a "junk," in another state.).

⁵¹ Section 31-46-1.1 provides:

There shall be two (2) classifications of salvage vehicles: Classification A indicates the vehicle has extensive damage and is good for "parts only." Classification B indicates the vehicle has considerable damage but is considered repairable. It will be the responsibility of insurance companies to evaluate and classify salvage. The classification is subject to review and evaluation by the

classifications, depending on the degree of damage the vehicles have sustained and their ultimate fate — classification A vehicles are those which have extensive damage and which will be dismantled for their parts; classification B vehicles have considerable damage but can be repaired. However, despite my best efforts, I have found it impossible to deduce a useful definition for the term “salvage vehicle” from these two classifications. At best, we can discern that it designates a vehicle which has suffered extensive or considerable damage and which will be dismantled or repaired — which does not help us distinguish between a *salvage* vehicle which can be repaired and a damaged *non-salvage* vehicle which can be repaired. And so, the regulation clarifies an ambiguity in our Salvage Law.

III ANALYSIS

Before beginning my analysis of the instant case, I shall reveal the positions of the parties, as presented in their memoranda.

administrator of the division of motor vehicles or his or her designee.

The evaluation to determine the classification for a vehicle is made initially by the insurance company, subject to revision by the DMV. *See* § 31-46-1.1. When satisfactorily repaired, they are given “Re-constructed Salvage” titles, pursuant to § 31-46-4 (presented *ante*, at 9-10 n.39).

A

Positions of the Parties

1

Appellant's Position

Mr. Ramos begins his memorandum with a chronicle of his dealings with the DMV.⁵² He then itemizes his grievances.

In his first argument, he complains that he has committed much time and money to the repair of the vehicle “under the assumption that he would be receiving a clean title as told to me on May 6th by the Administrative Office of the DMV.”⁵³

Secondly, citing § 31-46-3, he asserts that a salvage title is only necessary when the car is less than seven years old.⁵⁴

Thirdly, he asserts that § 31-46-2 is inapplicable to him because his car was not titled in Rhode Island.⁵⁵

Under his fourth argument, he collects various errors he identified in the hearing officer's decision, such as: (a) defining a

⁵² *Appellant's Mem.* at 1.

⁵³ *Appellant's Mem.* at 1.

⁵⁴ *Id.* at 1-2.

⁵⁵ *Id.* at 2.

salvage as one which is undrivable;⁵⁶ (b) that the hearing officer's statement, made after contact with the Massachusetts Registry, that under Massachusetts law the certificate of title Mr. Ramos would have received would have been marked "Collision," was incorrect;⁵⁷ (c) that the hearing officer incorrectly stated that vehicles greater than seven years old require a salvage title;⁵⁸ and (d) that the hearing officer was wrong to state that he would only be entitled to a "parts only" title.⁵⁹

In conclusion, he asks for relief (that is, a clean certificate of title) based on the following six grounds: (1) he purchased a car with a clean title; (2) he was told by the DMV that he would receive a clean title; (3) he has performed a substantial amount of repairs on the vehicle; (4) Rhode Island salvage laws do not apply to him because the car was not titled in Rhode Island at the time of the loss; (5)

⁵⁶ *Id.* It may be worth noting that Mr. Ramos did not cite to the page of the hearing officer's decision with regard to any of his claims of error. Parenthetically, we may also convey that Mr. Ramos asserted that the Infiniti was, in fact, drivable. *Id.*

⁵⁷ *Appellant's Mem.* at 2.

⁵⁸ *Appellant's Mem.* at 2.

⁵⁹ *Id.* It may be noted, at this juncture, that this comment by Mr. Ramos anticipated a future dispute that was, in my view, not yet before the Hearing Officer at the June 1 hearing, for, he had not yet presented the vehicle for inspection or even made application for one, as required by § 31-46-4, *ante* at 9-10 n.39.

Massachusetts title laws govern his case and they do not apply to motor vehicles more than ten years old; and, (6) even if he is subject to Rhode Island's salvage laws, they do not apply to this vehicle because it is more than seven years old.⁶⁰

Mr. Ramos also submitted a Supplemental Memorandum on October 8th. In it, he argues, citing § 31-3.1-25, that the DMV was without authority to reverse its issuance of a "clean" title to him.⁶¹

2

The Position of the DMV

The DMV's Memorandum begins with a narrative describing the unfolding of the current controversy.⁶² Then, it sets forth the standard of review that we must employ — namely, that which is found in the Administrative Procedures Act (APA), particularly § 42-35-15(g).⁶³ Next, the DMV addresses the substance of Mr. Ramos's position.

At the outset of its argument, the DMV rejects Mr. Ramos's assertion that, in the instant matter, it is bound to give deference to the

⁶⁰ *Appellant's Mem.* at 3.

⁶¹ *Appellant's Suppl. Mem.*, at 1. Mr. Ramos filed *another* brief on Nov. 7th, which restates his earlier arguments; he also makes factual assertions beyond the record, which is impermissible. For these reasons, I have disregarded it.

⁶² *DMV's Mem.* at 1-3.

⁶³ *DMV's Mem.* at 3-5.

Infiniti's status under Massachusetts' salvage laws.⁶⁴ To the contrary, the DMV notes that:

*[Mr. Ramos] is a Rhode Island resident who is applying for a Rhode Island title. Massachusetts motor vehicle title laws have no relevancy to this transaction just as Massachusetts probate laws would have no relevancy to the administration of the estate of a Rhode Island resident. The type of title that Massachusetts would issue for the 2008 Infiniti to a Massachusetts resident is irrelevant to the DMV's consideration of what title must be issued in Rhode Island. (Emphasis added)*⁶⁵

And so, the DMV argues that it must apply Rhode Island's salvage law when it decides the type of title to which Mr. Ramos would be entitled for his Infiniti.⁶⁶

Next, the DMV asserts that Chapter 31-46 provides a comprehensive scheme governing the regulation of salvage vehicles, which protects the public by ensuring that such vehicles are properly titled.⁶⁷ To illustrate this, the DMV enumerates several of the chapter's provisions.⁶⁸ Accordingly, the DMV asks that we interpret the chapter

⁶⁴ *Id.* at 5-6.

⁶⁵ *DMV's Mem.* at 5.

⁶⁶ *DMV's Mem.* at 5-6.

⁶⁷ *Id.* at 6-7.

⁶⁸ *Id.* at 7.

“in a manner that furthers these protections”⁶⁹ and without ascribing to any particular section an absurd result.⁷⁰

The DMV then states that it is without statutory authority to issue a “clean” title to Mr. Ramos for his Infiniti, because § 31-46-3’s exemption (from the mandate that the owner of a vehicle must apply for a salvage title forthwith after it has become heavily damaged) is inapplicable to him. The DMV argues that the exemption only applies to vehicles which are owned by Rhode Islanders at the time when the damage is sustained.⁷¹ And, the DMV reminds us that the Infiniti was not owned by Mr. Ramos but by a Bostonian when it was damaged.⁷²

Finally, the DMV asserts that since Mr. Ramos is not licensed to repair salvage vehicles in Rhode Island, it will be required to issue the vehicle a “For Parts Only” title, as provided in § 31-46-7(c).⁷³ The

⁶⁹ *DMV’s Mem.* at 6-7 (citing *Such v. State*, 950 A.2d 1150, 1156 (R.I. 2008), for the principle that statutes relating to the same subject matter — that is, *in pari materia* — should be read together in harmony to achieve their purpose).

⁷⁰ *DMV’s Mem.* at 6 (citing *Rhode Island State Labor Relations Board v. Valley Falls Fire District*, 505 A.2d 1170, 1171 (R.I. 1986)).

⁷¹ *DMV’s Mem.* at 7-8. The DMV notes that even a Rhode Islander who was fully within the parameters of the exemption would be required to obtain a salvage title prior to the vehicle being sold. *DMV’s Mem.* at 8.

⁷² *DMV’s Mem.* at 8.

⁷³ *DMV’s Mem.* at 8-9.

DMV further observes that, even if the work were to be done by a licensed shop, it would still be mandated to issue a “Re-constructed Salvage” title once the Infiniti was accepted as being roadworthy.⁷⁴ The DMV concludes that, in light of these statutes, issuing Mr. Ramos a clean title would be an absurd result which would endanger the public.⁷⁵

B

Discussion — Mr. Ramos’s Procedural Argument

In this case, Mr. Ramos has argued that the DMV terminated the clean title he had been granted by the DMV without good reason. But, he has also argued that the DMV was without the authority to rescind its prior administrative decision, without regard to the merit of that action, *vel non*. And so, if this procedural argument is correct, the DMV’s ruling must be summarily overturned, and I shall not be required to consider the rightness of its ruling. As a result, I shall address Mr. Ramos’s procedural argument first.

To begin, I note that, in her Decision, the DMV Hearing Officer asserted that the agency had the specific authority to reconsider

⁷⁴ *Id.* at 8 (citing § 31-46-4).

⁷⁵ *Id.* at 8.

the issuance of the clean title to Mr. Ramos; in this regard, she cited § 31-3.1-25(a), pursuant to which the DMV may revoke a certificate of title if the DMV finds that it was “erroneously issued.”⁷⁶ In his Supplemental Memorandum, Mr. Ramos rejects this position; he would limit the scope of the phrase “erroneously issued” to clerical mistakes; he would not sanction its use where the agency merely reconsidered the virtues of a decision made by an official.⁷⁷

To my knowledge, our Supreme Court has never had occasion to interpret this language — as it is used within § 31-3.1-25, elsewhere in Title 31, or, indeed, anywhere within our General Laws; thus, the issue before us one of first impression.⁷⁸ Nevertheless, I have no hesitation in finding that the phrase *erroneously issued* is broad enough

⁷⁶ *Decision of Hr’s Officer*, at 1; *ER*, at 4. See § 31-3.1-25(a), *ante* at 13.

⁷⁷ *Appellant’s Suppl. Mem.* at 1.

⁷⁸ I believe this is correct, even though I must report that this phrase was *used* (though not construed) many years ago by our Supreme Court in *Simmons v. Davis*, 18 R.I. 46, 25 A. 692 (1892), in a discussion of a controversy brought about when the Treasurer of Johnston refused to pay a vendor whose invoice had been approved by the Town Council, and which had been ordered to be paid by the Town Clerk. *Simmons*, 18 R.I. at 46. The Treasurer did so because he believed that the bill was fraudulent, and the Clerk’s order was “erroneously issued.” *Id.* at 46-47, 25 A. at 692. In conclusion, the Supreme Court refused to issue a writ of mandamus for payment and permitted the matter to be tried on the merits. *Id.* at 47-48. In any event, the usage of the phrase in *Simmons* was the purest form of dicta.

to encompass both (1) administrative rulings which have triggered second thoughts within the agency as to their soundness and been rescinded; and (2) less intellectually-based miscues, such as clerical mistakes. After all, in the law, it is standard nomenclature in appellate litigation to speak about trial judges *erring*. I see no reason why this same expansive construction should not also be applied to administrative decision-makers, like the Hearing Officer in the instant case.⁷⁹

And so, Mr. Ramos's procedural argument must fail. I find that the DMV did have the authority to review the propriety of its issuance of a clean certificate of title to Mr. Ramos.⁸⁰

⁷⁹ See *Boesche v. Udall*, 373 U.S. 472, 476, 484 (1963) (The Court, in recognizing the Secretary of the Interior's inherent right to cancel a mineral lease which was "invalid at its inception," refers to lease as having been "erroneously issued."); see also *Marcello v. State Coastal Resources Management Council*, 1998 WL 1472891, at *1 (R.I. Super. Ct. 1998) (The Superior Court affirmed the CRMC's revocation of a permit to repair a dock that it had issued to appellant homeowners; in so doing, it referred to the permit as having been "erroneously issued.").

⁸⁰ As related *ante*, Mr. Ramos complained in his Memorandum that he expended time and money based on his assumption that he would be able to receive a clean title to the Infiniti. *Appellant's Mem.* at 1. Although he does not develop this argument, he seems to be arguing that he was prejudiced by the DMV's initial issuance of a clean title, because it caused him to expend time and money toward the Infiniti's repair, even though it was rescinded so quickly. This entreaty suggests the doctrines of equitable estoppel and laches.

The former, *estoppel*, exists when a party has done an act (or made

C

Discussion – Mr. Ramos’s Substantive Arguments – Chapter 31-46

Chapter 31-46 provides those who own, insure, or repair heavily damaged motor vehicles, known as “salvage vehicles,” with a comprehensive set of directives which govern the salvage process on a step-by-step basis, from the immediate aftermath of the accident to the final disposition of the vehicle, whether it is returned to the road or sold for parts. In their substantive arguments submitted to this Court, Mr.

certain representations) for the purpose of inducing another to act (or fail to act) in reliance thereon, and the opposing party has been, as a result, injured. *See Providence Teachers Union v. Providence School Board*, 689 A.2d 388, 391-92 (R.I. 1997). But, generally, it has been said that the doctrine may not be used against the government when the act done or the representation made is contrary to law, or *ultra vires*. *See Romano v. Retirement Board of the Employees’ Retirement System of the State*, 767 A.2d 35, 38 (R.I. 2001) and *Waterman v. Caprio*, 983 A.2d 841, 846-47 (R.I. 2009); and generally, 28 AM. JUR. 2d *Estoppel and Waiver* § 127, “Generally; Estoppel Against Government” (Jan. 2020 Update). And so, any claim of estoppel must fail since the DMV’s initial decision was contrary to law.

The latter, *laches*, is a defense that precludes a legal action by a plaintiff who has negligently sat on his rights to the detriment of a defendant. *See O’Reilly v. Town of Glocester*, 621 A.2d 697, 702 (R.I. 1993) (citing *Fitzgerald v. O’Connell*, 120 R.I. 240, 245, 386 A.2d 1384, 1387 (1978)). But *laches* cannot be interposed when the government is acting to assert a public right. *O’Reilly*, 621 A.2d at 703. And generally, 27A AM. JUR. 2d *Equity* § 122, “State Governments as Chargeable with Laches” (Jan. 2020 Update) 30A C.J.S. *Equity* § 260, “By and against whom Laches Is Pleadable” (Feb. 2020 Update). And so, any claim of *laches* must fail because the DMV is acting in this case to maintain the fidelity of its title system, which as we stated at the very beginning of this opinion, intended to protect automobile purchasers from fraud and theft.

Ramos and the DMV demonstrate a common belief that the application of Chapter 31-46 holds the key to this case; and, they both believe that its proper construction will lead to a ruling in their favor.

However, Chapter 31-46 is missing one quality (or component) which would be very helpful in the instant matter; it does not give us express directions on how to handle the situation wherein a vehicle that is in the midst of the salvage process is brought into Rhode Island. To the contrary, the Chapter seems to assume that all salvage vehicles under its purview were garaged in Rhode Island at the time of the accident and will remain here until the end of the process.

Clearly, since the vehicle in question was not housed here at the time it was heavily damaged, Chapter 31-46 cannot be applicable to Mr. Ramos's Infiniti in its entirety. And so, we must determine for ourselves which provisions of Chapter 31-46 apply in the instant case and which do not. We shall do so now.

1

The First Three Sections of Chapter 31-46

Given that the Infiniti in question was garaged in Massachusetts at the time of the accident, it is undeniable that the initial steps taken in the salvage process by the prior owner and his

insurance company were effected in the Commonwealth, outside the ambit of Rhode Island law broadly, Chapter 31-46 generally, and the first three sections of Chapter 31-46, particularly.

The first of these is § 31-46-1, which relates to the duty of an insurance company which has taken possession of a salvage vehicle to obtain a salvage certificate of title within ten days; as we know, Liberty Mutual took possession of the Infiniti on January 25th in Massachusetts. The second is § 31-46-1.1, which directs the insurance company to evaluate the salvage vehicle as being “For Parts Only” or “repairable;” since Liberty Mutual took possession of the vehicle in Massachusetts it was not subject to this command of Rhode Island law. The third statute in this grouping is § 31-46-2, which requires an insurance company which sells a salvage vehicle to apply for a salvage certificate of title and provide it to the purchaser; since the sale of the vehicle to the auction house occurred in Massachusetts, this event also occurred beyond the reach of Rhode Island law.

The First Sentence of § 31-46-3

The first section I find in Chapter 31-46 which is plausibly applicable to Mr. Ramos's circumstances is § 31-46-3, entitled "Salvage by Non-Insurer." This section, which Mr. Ramos relies upon heavily, has several functions. In its first sentence, § 31-46-3 requires the owner of a salvage vehicle (other than an insurance company)⁸¹ to return its current certificate of title to the DMV within ten days⁸² and to obtain a salvage certificate of title for that vehicle if (1) the vehicle is less than seven years old and (2) the cost of repairing the vehicle exceeds 75% of the fair-market value of that vehicle before it was damaged. Then, in its second sentence, it defines the term "fair market value." In its third sentence, the section further requires an owner who sells a salvage vehicle to obtain a salvage certificate of title.⁸³

⁸¹ While the title of the statute indicates it pertains only to non-insurers, the statute itself does not express that limitation. *See*, § 31-46-3, *ante* at 6-7 n.28. In any event, since, as we shall see, I find this portion of the statute is inapplicable to Mr. Ramos, I need not address this issue.

⁸² The statute is not clear on the referent to the mandate that the salvage title be obtained within ten days. Quite frankly, the law is not explicit on this point. Perhaps it refers to the date of the accident, but we cannot be certain. In any event, this issue is not before me.

⁸³ It should suffice to mention here that the fourth sentence of § 31-46-3

It is with regard to the first sentence of section three that Mr. Ramos and the DMV strenuously join issue. For its part, the DMV urges that this sentence does not apply to Mr. Ramos at all, that it relates only to Rhode Island owners of motor vehicles who owned them *at the time that they were damaged*. Mr. Ramos counters that this provision does indeed apply to him and, in fact, it *entirely* exempts him from the rigors of the Chapter 31-46 salvage process because the Infiniti is more than seven years old; in effect, he argues that any vehicle over seven years old cannot be deemed a salvage vehicle within the meaning of Chapter 31-46.

I am inclined toward the DMV's reading of the sentence; the requirement that the owner of a total loss vehicle must immediately (*i.e.*, within ten days) request a salvage title is inapplicable to Mr. Ramos since he did not own the vehicle at the time of the accident.

In adopting this interpretation, I find it significant that the statute directs the vehicle's owner to return the vehicle's previous certificate of title to the DMV (and obtain a salvage title in its place).

Therefore, to fall within the exemption, the owner must be one who had

states that the form of the salvage certificate of title shall be prescribed by the DMV administrator; the fifth sentence sets a \$50.00 fee for processing the title.

previously been given a clean certificate of title by the Rhode Island DMV, since one can only *return* an item to our DMV that which one *obtained* from our DMV. And so, this aspect of the sentence buttresses the DMV's position.

On the other hand, I find that Appellant's position — *i.e.*, that the first sentence of section three excludes older vehicles from the definition of a "salvage vehicle" — is unsupportable. Quite simply, the language of the sentence does not *purport* to create any such definition.⁸⁴ Its effect is temporal. By its plain language, the sentence merely delays the effective date of the owner's duty to obtain a salvage title if two circumstances are present; namely, (a) the cost of repairs exceeds 75% of the pre-damage value of the vehicle, and (b) the vehicle is more than seven years old.⁸⁵ Thus, those vehicles which fall within the § 31-46-3 exemption need not be retitled immediately. That's all that the first sentence of section three accomplishes.

⁸⁴ Appellant's construction of the sentence would have the effect of defining salvage vehicles inconsistently, depending on their ownership.

⁸⁵ One can see why the legislature would choose to excuse owners of older vehicles from the duty to respond to the DMV within ten days of a major accident; after all, their title is on record. And, in many cases, the determination of the vehicle's classification under § 31-46-1.1 may not yet have been made by the insurance company.

In any event, I find that Mr. Ramos was not required, *by § 31-46-3*, to obtain a salvage title for the Infiniti on April 30th.

3

The Remainder of Chapter 31-46

Now, strictly speaking, the remaining provisions of Chapter 31-46 are not pertinent to this case because they relate to steps in the salvage process which Mr. Ramos has not yet reached — according to the record in this case.

As we stated above, the third sentence of § 31-46-3 requires, without stated exception, owners of salvage vehicles who wish to sell them to first obtain salvage certificates of title.⁸⁶ Mr. Ramos has not averred that he wishes to sell the vehicle as of yet.

In the same way, any consideration of § 31-46-4, which provides that when a salvage vehicle has been restored for operation the

⁸⁶ The third sentence of § 31-46-3 provides:

§ 31-46-3. Salvage by non-insurer. — ... If any person, individual, or corporation or other owner sells the motor vehicle for any reason, that owner shall make application for a salvage certificate of title. ...

This provision contravenes Mr. Ramos's notion that the first sentence of section 3 completely relieves owners of older damaged vehicles from all the duties which are visited upon owners of newer salvage vehicles by Chapter 31-46. To the contrary, it does not even give them relief from the commands found within the remainder of § 31-46-3.

owner-restorer shall, without express exception, surrender the salvage title and obtain a new certificate of title, is also premature. There is no indication in the record of the instant case that Mr. Ramos has filed an application for a reconstruction title, which is the initial step in the process established under § 31-46-4. Moreover, nowhere in the record of this case does it appear that the Infiniti is ready for a roadworthiness examination — which is a further precondition to obtaining a “Re-constructed Salvage” certificate of title under § 31-46-4.⁸⁷

Any discussion of the final section of the chapter, § 31-46-7, is also premature. Section 31-46-7 expands upon § 31-46-4 by providing that the title of a salvage vehicle which has *not* been repaired by a person possessing a special “Salvage Rebuilders’ License” must be

⁸⁷ The fact that these two provisions are in place, but not yet enforceable against Mr. Ramos, makes the adamancy of his position all the more curious and ironic. After all, the DMV decision from which he appeals can have only interim effect, if Mr. Ramos intends to ever derive an economic benefit from the Infiniti. If he wants to use it as a drivable vehicle, either for himself or for his rental fleet, he will eventually be required to submit for inspection in order to obtain a “Re-constructed Salvage” title, pursuant to § 31-46-4; if he wishes to sell it, he will have to obtain a salvage title, under § 41-46-3. There is no third option, except letting it sit and rust. And so, at the end of the day, this case can only determine what sort of title the vehicle will carry until Mr. Ramos sells it or presents it for a roadworthiness examination — and receives another title.

stamped “For Parts Only.”⁸⁸ While it is true that Mr. Ramos informed the Hearing Officer that he has been repairing the vehicle himself, and that he does not possess the mandatory licenses, the issue is still not perfected from a titling perspective.⁸⁹

D

The Impact of Section 31-3.1-1

However, while Mr. Ramos was not subject to the directive that he immediately seek a salvage license when he bought the vehicle, he *was* (and is) subject to the requirement, contained in § 31-3.1-1(a),⁹⁰ to obtain a certificate of title for the Infiniti, since it had never carried a Rhode Island title before. And when, in accordance with this duty, Mr.

⁸⁸ See § 31-46-7(c). Note: there are no stated exceptions to this rule. See the text of section 7, *ante* at 8-9.

⁸⁹ Unfortunately for Mr. Ramos, this particular issue may be fully realized and no longer inchoate from the perspective of the *criminal* law. Sections 31-46-5 and 31-46-7(d) provide criminal (felony) penalties for those who violate this section by repairing a salvage vehicle without a license or otherwise failing to adhere to the mandates of Chapter 31-46. As I read these statutes, they do not require proof that the work has been completed for a charge to be brought. In any event, this issue is not before the Court in the current appeal.

Of course, the DMV is certainly free to make a referral to an appropriate law enforcement agency if it determines that it has reason to believe that a crime has been committed by any person.

⁹⁰ See text of § 31-3.1-1(a), quoted *ante*, at 12-13. Again, his situation must be distinguished from that of the owner of a Rhode Island vehicle who, after a devastating accident, is not required to seek a new title immediately, under § 31-46-3.

Ramos responded to the DMV on April 30th, to apply for a title, he triggered the controversy which we must now resolve.

And so, we must ask — what should the DMV have done when Mr. Ramos sought a title for the Infiniti: give him what he wanted, a clean title, or issue a salvage title? As we stated *ante*, Chapter 31-46 does not give express direction as to the manner in which total loss vehicles should be handled when they are brought into Rhode Island. There is an ambiguity in the law.

The DMV addressed the issue and, after a false start, determined that, in exercising its authority, it had to take cognizance of the condition of the vehicle; it therefore rescinded the clean title which it had issued. And, after due consideration, I find that this was a lawful decision.

As we have recounted, Mr. Ramos asserts that he is entitled to a clean title because that is what the vehicle had been given in Massachusetts.⁹¹ I think this argument, even if its factual predicate is

⁹¹ This statement, which was reiterated by Mr. Ramos, and which is the underlying premise of his argument, should not be taken as a claim that the status of the vehicle appears nowhere in the Infiniti's Massachusetts paperwork, for it does. *See Application and Authorization for Payoff for a Salvage Motor Vehicle*, Ex. No. 3, *ER* at 14. And, of course, we have no way of knowing what else may be in the complete Massachusetts Registry file.

true, reflects a fundamental misunderstanding of our federal system — within which, it is the legislatures of the states, not the Congress, which wield the police power.⁹² And this power is exercised by each state *independently*.

The DMV is a component part of Rhode Island's state government, created by the General Assembly to perform the duties

⁹² The “police power” is said to be not at all amenable to a precise definition. In *National Federation of Independent Business v. Sebelius*, 567 U.S. 519, 535-36 (2012), Chief Justice Roberts referred to it as the “general power of governing.” It has also been stated that the power “cannot be circumscribed within narrow limits” but “is extensive, elastic and constantly evolving to meet new and increasing demands for its exercise for the benefit of society and to promote the general welfare.” 16A Am. Jur. 2d, *Constitutional Law*, §§ 333 (Nov.2019 Update) (citing *State v. Ivey*, 474 S.E.2d 501, 505 (1966)).

In particular, laws regulating motor vehicles have long been recognized as a valid exercise of the police power by our Rhode Island Supreme Court. See *State v. Garvin*, 945 A.2d 821, 823-24 (R.I. 2008) (upholding laws barring unlicensed drivers from the highways); *State v. Locke*, 418 A.2d 843, 849-50 (R.I.1980) (upholding law criminalizing drunk driving); *State ex rel. Colvin v. Lombardi*, 104 R.I. 28, 30-31, 241 A.2d 625, 627 (1968) (upholding motorcycle helmet law); *Berberian v. Lussier*, 87 R.I. 226, 231-32, 139 A.2d 869, 872-73 (1958) (upholding financial responsibility laws).

And, while no Rhode Island case has addressed the constitutionality of our title law (Chapter 31-3.1), courts in our sister states have done so, and found their title laws to be constitutional. See *Killingsworth v. West Way Motors, Inc.*, 347 P.2d 1098, 1100 (Ariz. 1959); *Loyal's Auto Exchange, Inc. v. Munch*, 45 N.W.2d 913, 919-20 (Neb. 1951); *State ex rel. City Loan and Savings v. Taggart*, 17 N.E.2d 758, 760 (Ohio, 1950). In large part, it is fair to describe the Salvage Law, Chapter 31-46, as an extension of the title law; this is particularly and patently true of the aspects of the Salvage Law which are pertinent to the instant case. So, I believe there is little doubt that Chapter 31-46 is a valid exercise of the police power by the General Assembly.

“assigned to it by law[.]” in a manner authorized by statute.⁹³ A reading of Chapter 31-46 reveals no aspect of salvage law which requires the DMV to defer to the administrative decisions or adjudicatory rulings of its counterparts in the sister states.⁹⁴ And so, as the Hearing Officer ruled, the Rhode Island DMV was not bound by any determination made by the Massachusetts registry.

Instead, the DMV decided Mr. Ramos’s case by applying Rhode Island law — Chapter 31-46 and the definition of “salvage vehicle” contained in regulation 230-RICR-30-05-2 (*i.e.*, that the vehicle had become a “total loss” after an accident). Mr. Ramos’s Infiniti undoubtedly met that definition, since it had been deeded by the prior private owner to Liberty Mutual as a total loss.⁹⁵ Moreover, the DMV has the authority to include on each certificate of title such data as it may prescribe.⁹⁶

⁹³ See § 31-2-1. The DMV is made a part of the Department of Revenue by § 42-142-1(c).

⁹⁴ As we pointed out, *ante*, at 16 n.50, other states do have such provisions.

⁹⁵ The DMV confirmed this by obtaining a CARFAX report on the vehicle. See Exhibit 6, *ER*, at 18-22, particularly, as to declaration of total loss, at 18. Doing so by DMV personnel was fully authorized by G.L. 1956 § 31-3.1-26(b)(1).

⁹⁶ See G.L. 31-3.1-7(a), which itemizes the information which shall be contained on each certificate of title. Paragraph 31-3.1-7(a)(6) is the catchall,

And so, I find that the DMV's decision (requiring that the Infiniti carry a salvage certificate of title), which was made in the face of an ambiguity in the salvage law (regarding the manner in which total loss vehicles which are brought into Rhode Island should be treated), is neither clearly erroneous nor contrary to law. Rather, it constitutes a reasonable and common-sense resolution of the case.⁹⁷ As such, it must be accorded weight and deference.⁹⁸

Moreover, obtaining a salvage title may well be necessary for Mr. Ramos, should he choose to have the Infiniti restored to roadworthiness by a properly licensed entity. Section 31-46-4 requires

which allows the DMV to include: "Any other data the division of motor vehicles prescribes."

⁹⁷ In any event, the alternative is to have the DMV issue a materially false certificate of title, a result to be avoided if there is any intention to protect unwary future buyers. *See generally, Central RV, Inc. Kansas Dep't of Revenue*, 451 P.3d 44, 45-46 (Kan. Ct. App. 2019) (Kansas Appeals Court holds that a travel trailer which had been given a "salvage title" in Oregon merited a "rebuilt salvage vehicle" title under Kansas law, since it had been "previously designated a salvage vehicle." Court finds that "the goal of this statute was to forbid the sort of *title washing* that Central RV seeks to accomplish here.") (emphasis added).

⁹⁸ *See In re Lallo*, 768 A.2d 921, 926 (R.I. 2001) (reiterating prior decisions which have held that the ruling of an agency, interpreting an unclear statute regarding which it has the duty of administration and enforcement, is entitled to great deference) (citing *In re Advisory Opinion to the Governor*, 732 A.2d 55, 76 (R.I. 1999), *Pawtucket Power Associates Limited Partnership v. City of Pawtucket*, 622 A.2d 452, 456 (R.I.1993), and *Defender of Animals, Inc. v. Dep't of Environmental Management*, 553 A.2d 541, 543 (R.I.1989)).

that, prior to obtaining a “Re-constructed Salvage” title, the applicant must surrender the previously issued “Salvage Title.” This may well be an insurmountable problem for Mr. Ramos — but one that may be easily avoided by obtaining a salvage title at this time.

And so, for all the forgoing reasons, I believed the decision of the DMV should be affirmed.

E **SUMMARY**

In light of the intricacy of this issue, I believe the following summary of my reasoning may be of some assistance to the parties and the more disinterested reader alike.

I recommend affirmance of the DMV’s Order rescinding the clean title which had been issued to Mr. Ramos for the following reasons:

First, I conclude that the DMV had the statutory authority to revisit its decision to grant Mr. Ramos a clean title.

Secondly, the legal theories advanced by Mr. Ramos are clearly incorrect. The Rhode Island DMV is not in any way bound by the prior rulings of the Massachusetts Registry, whether they favor Mr. Ramos or not. Also, his interpretation of § 31-46-3 is mistaken; the first

sentence of that statute does not exempt all vehicles which are more than seven years old from the ambit of the salvage law. By the plain and ordinary meaning of its language, it merely grants the owners of older total-loss vehicles a postponement of their duty to obtain a salvage title.

Thirdly, I agree with the DMV's reading of § 31-46-3 — namely, that the section is only applicable to Rhode Island residents who own older total-loss vehicles when the accident occurs which causes them to be reduced to total-loss status. This interpretation has two effects: *one*, it cuts away Mr. Ramos's argument that § 31-46-3 provides him with an exemption; *and two*, it negates any argument by the DMV that Mr. Ramos was required by § 31-46-3 to immediately obtain a salvage title for the Infiniti when he brought that automobile to Rhode Island — after all, how could it be otherwise if the provision does not apply to him?

Finally, when, as required by § 31-46-3.1(a), Mr. Ramos sought a (clean) title for the Infiniti, he forced the DMV to make a decision (as to the kind of title he should receive) outside of the step-by-step salvage framework established in Chapter 31-46. Nevertheless, by simply applying the definition of salvage vehicle found in regulation 230-RICR-

