

Lot owners, garage fight 'predatory towing' law

Albany County law violates private property rights, claim lot owners, garage

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Updated 09:05 a.m., Friday, January 27, 2012

ALBANY — A garage criticized in the past for having a quick hook and three property owners are suing to strike down sections of a nearly five-year-old county law meant to block tow truck companies from seizing people's cars from private lots for relatively minor infractions.

The lawsuit, filed in state [Supreme Court](#) earlier this month, argues that the law violates the owners' private property rights as outlined in the state and federal constitutions and "undermines public safety ... to the benefit of criminal trespassers and thieves."

The suit also contends the law is harming the tow company profits by imposing requirements above and behind those already contained in state and federal law.

Boosters of the 2007 so-called "predatory towing" law framed it as a consumer protection measure to prevent property owners and tow companies from colluding to snag vehicles and rack up hefty fees for little or no reason.

It was spurred by complaints from tenants in Latham apartment complexes that their cars were being scooped up late at night by Joe's [Osborne Street Garage](#) in Albany for infractions as small as parking with one tire slightly on the parking lots' lines or on nearby grass.

In the suit the property owners contend it imposed illegal and unfair burdens on their ability to police their lots and keep them safe and clear of snow.

Specifically, the 37-page complaint filed on behalf of the Osborne Street tow company and the three property owners targets a section of the legislation that requires the property owner or his or her designee to be present while the vehicle is being towed — especially when getting there becomes a safety hazard during foul weather.

The law also bars the tow truck operator from being the property owners' representative.

In the suit, one of the plaintiffs, [Victor Procopio](#) of Berne, notes that he lives about 25 miles from property he owns on Thirteenth Street in Watervliet, meaning he can't be there all the time.

"I just didn't feel that I had to be there every time ... if it was like 8 o'clock at night or something," [Roger Ploof](#), another landlord who is party to the suit, said. "If their cars aren't supposed to be there and they're towed, that's what people should expect. If it's done irresponsibly, then the (property) owner's at fault."

Ploof said he joined the lawsuit at the request of [Joe Gimondo](#), the owner of Joe's Osborne Street Garage. Neither Gimondo nor the group's attorney, [Lewis Oliver](#), could be reached for comment Thursday.

The other plaintiffs are Steven and [Catherine Pesta](#), who own property on Ontario Street in Cohoes.

The suit also seeks to strike down two sections of the law that require the tow truck driver to have a notarized copy of written authorization by the property owner as well as a document specifically detailing each vehicle to be towed and the reasons why. Violators face a fine as steep as \$10,000 per offense.

Deputy County Executive Michael Perrin declined to comment on the suit. But Legislator [Timothy Nichols](#), a Latham Democrat and the law's chief sponsor, said he was confident it would stand up, noting it was modeled after one in Suffolk County.

"We don't want tow truck drivers to act as judge, jury and executioner. We have to have somebody in between," Nichols said. "I'm pretty confident that we'll be able to defend it."

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