

## Legal Certainty against Sanctions for Car Owners Who Do Not Have a Garage

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### ABSTRACT

*The availability of parking spaces is one of the impacts of vehicle growth. Local authorities are required to restrict parking due to lack of parking space. This is because not every house has a parking lot. Sociological research methodology and judicial approach are applied in this investigation. This sociological, legal research methodology utilizes a library of primary legal materials, such as legislation that has been passed, as a secondary legal source. Based on the analysis that has been done, according to Article 671 of the Civil Code, the owner of the house has the right to use the road in front of his property. This provides legal certainty against sanctions for car owners without garages. If you intend to use the road, you must obtain prior permission to do so. Paragraphs 1 and 2 of Article 246 The administrative sanctions mentioned below are in the form of written reprimands, administrative fines, license suspension, revocation, and other administrative sanctions in accordance with applicable laws and regulations. According to Article 193 of the Criminal Code, parking on the street is illegal because it can make other people's cars unable to move and make it difficult for others to use the road. Article 493 of the Criminal Code, provided that the act was committed unlawfully, gives a fine of up to 1,500 rupiah, which is the maximum penalty for this. This research implies that it provides an analysis related to legal certainty against sanctions for car owners who do not have a garage.*

**Keywords:** Law, Sanction, Garage, Car

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### INTRODUCTION

The realization of people's wealth depends heavily on transportation. Because of accessibility, a place needs transportation to progress and thrive. The welfare of society and the growth of a region are influenced by efficient transportation (Wicaksono, 2021). Improved transportation encourages development at all levels of Indonesian society. A reliable, effective, and efficient transportation sector supports the development of other industries in an orderly, smooth, fast, precise, safe, comfortable, and affordable manner. Such as rapid population growth, especially in urban areas, and increasing rates of private vehicle ownership. One of the impacts of the increase in the number of motorized vehicles is traffic congestion (Nababan et al., 2023). Congestion is the obstacle that most disturbs passenger comfort when using land transportation. People who work in congested areas may be less productive because they take longer to perform activities, which increases air pollution and gas consumption.

The availability of parking spaces is one of the impacts of vehicle growth (Panglima & Djaja, 2023). Due to the scarcity of parking spaces, local authorities were forced to restrict parking. In Jakarta, housing often experiences this problem because many unregistered private cars park there, making it difficult for other cars to pass (Nurzaman et al., 2021). Cars, in particular, are parked carelessly in front of the house because not all properties have parking. For a number of

reasons, certain places do not enforce this law. However, no provision is made to provide accommodation if a person parks his car in front of his house, disrupting the existing neighborhood road system, as happens in large cities where it is illegal to do so (Aji Pamurti, 2021). In addition, it can be said that the building permit agreement covers the installation of a garage because parking a car on a village or residential road is considered "disruptive to traffic". Only home builders are currently subject to regulations (Kurniawan et al., 2020).

Various civil law provisions governing the legal basis for those harmed by indiscriminate parking may be relevant to this case. The first is Article 671 of the Indonesian Civil Code, which states that lanes, lanes, or highways are common property, and anyone who uses the road to park his vehicle in violation of this provision will be subject to legal sanctions (: Lila Wahyuningtyas, 2014). The purpose of this article is to show that parking on the road body without regard to the interests of other parties harms the interests of that party. These parties must prioritize the needs of others above their interests, such as in the event of a fire, natural disaster, or other urgent situation that requires immediate handling but cannot be handled because of careless parking on the road. DKI Jakarta Province is one of the provinces with unique rules governing workshop ownership. Based on its law, DKI Jakarta Province sets standards for owner obligations. Motor vehicles are required to have a garage, according to article 140 of the Regional Transportation Law. The article reads as follows: (1) To operate a motor vehicle, a person or organization must also own or control a repair facility. (2) Any person or business entity owning a Driver's vehicle that leaves his vehicle on a public road is unlawful. (3) To purchase a motor vehicle, the buyer must present a license of ownership of the workshop from the local sub-district to salvage the vehicle. It can be a person or a business. (4) To issue a Motor Vehicle Number Certificate, a certificate of ownership of a workshop, as referred to in paragraph (3), is required. (5) Provisions for ownership of additional motor vehicles regulated by Governor Regulation. Based on this explanation, this article will examine in more depth the legal certainty against sanctions for car owners who do not have a garage.

## **LITERATURE REVIEW**

Parking is a condition where the driver turns off the engine or temporarily stops the car (Susantono et al., 2011). This interpretation is treated as a parked vehicle that stops or remains stationary for a long time after the driver has left. However, the root of the problem is that parking as intended can be viewed negatively, and parking violations by car owners can be considered detrimental to the interests of others. Therefore, a state where the car is not used because the owner has left it for a while can be described as a parking space (Mardianti & Maryanto, 2021).

According to Article 671 of the Criminal Code, homeowners have the right to use any main road, lane, or main road. As a result, the road in front of the house belonged to them. If the agreement is not ratified, whoever violates the law and harms others is obliged to compensate for his losses, according to Article 1365 of the Civil Code. The aggrieved party can file a civil suit for damages if this happens. Garage ownership is regulated in Law Number 22 of 2009 concerning Road Traffic and Transportation (Law LLAJR). Paragraph 1 of Article 275 states: "Whoever violates the provisions of Article 28 paragraph (2) relating to the operation of traffic signs, road markings, traffic signaling devices, pedestrian facilities, and road user safety devices shall be punished with a maximum imprisonment of 1 (one) month. Or a maximum fine of Rp. 250,000.00 (two hundred fifty thousand rupiah).

## **METHOD**

Sociological research methodology and judicial approach applied in this investigation (Sugiyono, 2016). This sociological juridical research method uses secondary legal materials in the form of literature in accordance with the topic of study as well as Law Number 22 of 2009 concerning Road Traffic and Transportation, Articles 671, 1365, and 493 of the Criminal Code, as well as DKI Jakarta Provincial Regulation Number 5 of 2014 concerning Transportation as primary legal material.

## **RESULT**

Parking a car on a public residential street, in front of a neighbor's house, or front of your own house can sometimes be uncomfortable or even disruptive to activities in the residential environment, especially if this is done frequently and consistently for a long time. According to research by Lila Wahyuningtyas (2014), Parking a car on a private road is one of the most frequent violations in the community, especially among neighbors. However, if the RT or the nearest neighbor gives permission, then the act can be considered permissible. Given that there are currently many people who own many cars or motorcycles, it is known that the increasing number of motorized vehicles is the cause of the large amount of parking carried out by residential communities in residential or residential areas (Aji Pamurti, 2021). Parking policies are necessary in almost every city center due to the large number of these vehicles on residential, residential, or residential roads that can disrupt the order of neighborhood operations as well as the challenges posed by vehicle parking, such as traffic. Disruption and deterioration of road quality. Many elements of a residential parking system, such as the large number of vehicles parked on sidewalks, can be seen as its drawbacks.

In this perspective, society and the law of self-existence are closely interrelated. As a result, it is said that in the interaction between law and society, neither legal activity nor its existence is inseparable from society. Law is a component of a larger social process. (Leks, 2013). The actions of the car-owning community are strongly tied to local customs in the area. These include cars without garages parked on the street where people live or outside neighboring homes. As a result, there must be certain laws, such as civil law or neighboring laws, that can govern the situation. The right to use roads, hallways, or passages actually belongs to the owner of the goods, according to Article 671 of the Civil Code. As a result, the homeowner has the right to use the road in front of his house. Homeowners must obtain authorization to use the road if they wish to do so. The RT chairman can intervene and provide solutions if something unsettling happens because of the issue or scold neighbors who disturb the peace by parking their cars in uncomfortable places (Wirahaji et al., 1970). Regarding the unauthorized use of someone's property in connection with the use of another neighbor's road or property as a parking lot, disturbing the neighbor's life without permission, disturbing others, misusing one's property, violating neighbor's laws, and revoking or waiving rights while serving the public good. The property may only be used in accordance with the law, and all applicable basic laws and regulations must be followed. The idea of law versus law has actually been expanded. Therefore, it is against the law to use property rights in a way that also violates public decency and order.

DKI Jakarta Provincial Transportation Regional Regulation Number 5 of 2014 states there is a limit of one vehicle per garage. Everyone who wants to buy a vehicle under one car, one garage policy must present a garage ownership letter from the nearest village. They cannot buy a car if

their needs are not met. Renewing the vehicle registration and getting ownership of the garage is very important. Law Number 22 of 2009, which regulates traffic and public transportation, only regulates motor vehicle ownership in terms of vehicle bills, physical examinations, and ID cards (Gio et al., 2023).

In fact, local laws and the state of society now prohibit the purchase of motor vehicles without showing proof of ownership of a parking space. However, due to the perfunctory showroom and leasing, ownership of parking spaces can be tricked. As a result, this item discourages consumers from considering buying a new car. If left unchecked, the number of motorized vehicles on the highway will increase. In addition, motor vehicle parking occurs on the body of the road, thus slowing down traffic. Law Number 22 of 2009 and Regional Regulation Number 5 of 2014 differ in one matter, among others. Law Number 22 of 2009 does not support Regional Regulation Number 5 of 2014. (Nababan et al., 2023). The implementation of the requirements for Mastering the Garage in DKI Regional Regulation No. 5 of 2014 can be assisted by the creation of a licensing system for managers, owners, and users of joint workshops. Assistance in the implementation of workshop regulation provisions can be useful both for the government in terms of assisting the implementation of regulations and for the community in terms of providing legal certainty and making it easier for the community to fulfill their obligations related to the provisions of workshop control. The joint workshop licensing system created will have the potential to be used by the government as a community briefing tool or as a government engineering tool (Nainggolan & Nugroho, 2018).

Citizens who insist on leaving their cars on the road will inevitably face consequences. Administrative sanctions, as referred to in Article 246 Paragraphs 1 and 2, apply to any person or business entity that violates the regulations outlined in regional regulations concerning activities or businesses related to road, rail, water, and air transportation. The proposed administrative sanctions, as referred to in paragraph 2, are in the form of written reprimands, administrative fines, license suspension, revocation, and other administrative sanctions in accordance with applicable laws and regulations.

Additional criminal threats that can be imposed in addition to Article 1 are contained in Article 193 of the Criminal Code, which reads, "Whoever by mistake (negligence) causes a building for public traffic to be destroyed, unusable, or damaged, or causes land or water public roads to be blocked, or efforts to secure buildings or roads are thwarted, threatened, threatened with (1) imprisonment for not more than four months and two weeks or a maximum fine, or both. According to the justification given, Article 193 paragraph (1) of the Criminal Code means that parking on the body of the road is against the law because it can cause other people's vehicles to become immobile and hinder others from using the road. Suppose a person endangers others' freedom to move on public roads. In that case, it is a criminal threat, according to Article 493 of the Criminal Code, provided that the act is committed unlawfully. Free parking on the road body is included in this levy as parking violations have been committed in accordance with the Traffic Act. A fine of up to 1,500 rupiah is the maximum penalty for this.

## DISCUSSION

By implementing a licensing system for managers, owners, and users of shared work racks, DKI Regional Regulation No. 5 of 2014 concerning Requirements for Having a Workshop can be more effectively applied (Azahra et al., 2023). Assistance in the implementation of workshop

regulation provisions can be helpful to both the government in terms of assisting the implementation of regulations and to the community in terms of providing legal certainty and making it easier for the community to fulfill their obligations related to provisions regarding workshop control (Mardianti & Maryanto, 2021). The joint workshop licensing system created will have the potential to be used by the government as a community briefing tool or as a government engineering tool. Residents who insist on parking their vehicles on the road will certainly be sanctioned. Administrative sanctions, as referred to in Article 246 Paragraphs 1 and 2, apply to any person or business entity that violates the regulations outlined in regional regulations concerning activities or businesses related to road, rail, water, and air transportation. According to paragraph 2, anticipated administrative consequences consist of written reprimands, administrative fines, license suspension, revocation, and other administrative sanctions in accordance with applicable laws and regulations.

In addition to Article 1, other applicable legal sanctions are described in Article 193 of the Criminal Code, which states that "Whoever by mistake (negligence) causes a building for public traffic to be destroyed, unusable, or damaged, or causes the land or water of a public road to be blocked, or efforts to secure a building or road are thwarted, threatened, punished with (1) imprisonment for not more than four months and two weeks or a maximum fine, or both." Based on the above reasons, paragraph 1 of Article 193, according to the Criminal Code, it is prohibited to park on the body of the road because it can make other people's cars unable to move and interfere with other people's traffic. According to Article 493 of the Penal Code, if a person endangers another person's right to move freely on a public road and the act is against the law, it constitutes a criminal threat. Free parking on the road body is included in this levy as parking violations have been committed in accordance with the Traffic Act. A fine of up to 1,500 rupiahs is the maximum penalty for this. Other legal initiatives: If residents park in front of another family's home or on a public housing street, 21 they can complain and get the best solution by going to the head of the RT or housing RW. Actions taken by the head of the RT or RW are usually in the form of reprimands to car owners who are the target of complaints and reports of angry residents. Scolded citizens can correct their behavior if they understand how good and better their neighbors are. If the family approach has been tried but you still cannot, another penalty for this matter is to file a civil lawsuit as a settlement. The request letter for filing the claim is to claim compensation for errors according to Article 1365 of the Civil Code.

## **CONCLUSION**

Based on the analysis that has been done, Legal Certainty Against Sanctions for Car Owners Who Do Not Have a Garage is The right to use the road, alley, or alley that actually belongs to the owner of the goods, according to Article 671 of the Civil Code. As a result, the property owner has permission to use the road in front of him. If homeowners want to use the road, they must obtain permission first. Administrative sanctions, as referred to in Article 246 Paragraphs 1 and 2, apply to any person or business entity that violates the regulations outlined in regional regulations concerning activities or businesses related to road, rail, water, and air transportation. The proposed administrative sanctions, as referred to in paragraph 2, are in the form of written reprimands, administrative fines, license suspension, revocation, and other administrative sanctions in accordance with applicable laws and regulations. According to Article 193 of the Criminal Code, parking on the street is illegal because it can make other

people's cars unable to move and make it difficult for others to use the road. According to Article 493 of the Criminal Code, the act must be done unlawfully. Free parking on the road body is included in this levy as parking violations have been committed in accordance with the Traffic Act. A fine of up to 1,500 rupiah is the maximum penalty for this.

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