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**The Ethics of Winter Dibs Parking**

**If you shovel your car out of a snowdrift, does that give you the right to reserve the space for days?**

By Tom VanderbiltPosted Friday, Feb. 25, 2011, at 10:44 AM ET

As the glacial entombment of American city streets begins to recede—at least temporarily—it seems a good time to consider the controversial practice of "winter dibs": the act of delineating as one's own, via white monobloc plastic chairs or other unloved detritus, the parking space from which one has shoveled out one's car. The penalty for disregarding this territorial marking can be anything from a [passive-aggressive note](http://www.passiveaggressivenotes.com/2010/02/21/can-you-dig-it/) to [slashed tires](http://news.bostonherald.com/news/regional/view.bg?articleid=1316169) to bodily assault.

The practice, according to countless media accounts through the years, is endemic in cities like Boston, Chicago, and Pittsburgh. As a Brooklynite, it had always seemed like some kind of urban legend—though I had, once or twice, actually seen a person playing the part of a lawn chair, standing in a spot to reserve it for a moving truck or some such. But the idea of leaving an inanimate placeholder on a public street? You can almost hear the collective *fuhgeddaboudit*. What happens on my block is more often inertia—I saw one car, buried in snow, in the same spot for two weeks.

Winter dibs is symptomatic of the paradoxical nature of urban car ownership. The car is a strange hybrid, without peer, of private and public space—one that endows people with a curious sense of entitlement. People often feel that free, on-street urban parking is their due. But shoveling out a space on a public street no more entitles you to future ownership of that space than shoveling out your neighbor's driveway entitles you to park *there*.

When I asked Randy Cohen, the erstwhile "Ethicist" of the *New York Times Magazine* (now working on an ethics show for public radio) about the practice, he said while he understood the gut-level "exasperation" to "see some non-shoveler pull in just as you pull out," he opposes winter dibs on ethical grounds. "Shoveling out your car is simply the price you pay for storing your private property in our public space," he said. After all, shoveling the sidewalk in front of your house (if only for a fear of a lawsuit), does not, Cohen points out, "transform it into your personal property. You can't charge a toll to passers-by who want to walk on it. You can't barricade it with hideous lawn furniture or suspiciously numerous beer coolers." Cohen has a point. Imagine a city transformed by winter dibs logic: a person demanding access to a subway seat on the grounds they had wiped up a coffee spill on that very seat during their morning commute; a parent at a playground demanding a child give up a swing because they had earlier shoveled the snow off it for their child. It would be madness.

Meanwhile, the contingent in favor of winter dibs parking argues for a kind of [Lockean state](http://www.tnr.com/blog/jonathan-chait/hobbes-locke-and-snowmageddon) of "private property in the state of nature" against the typically Hobbesian regime of urban parking ("nasty, brutal, and short"). As University of Chicago lecturer Paula Worthington [writes](http://theexpiredmeter.com/?p=1812), "when you shovel out a parking spot, you create a semi-durable public asset—a usable parking space, and when you do so, we *all* benefit even when you alone have "rights" to the spot, as then you don't cruise around the neighborhood looking for parking, spinning your wheels trying to get in or out of unshoveled spots and basically getting in everyone's way."

But the spot that's reserved with a beach chair isn't usable. A blocked-off space contributes no more to the public good than does simply leaving one's car entrapped in snow. Your car may be safely ensconced in your office's parking lot, but how many of your neighbors are left cruising around because of your dibbing? My neighborhood, for example, has its share of vehicular deadwood—those vehicles that seem to be moved only when the street-sweepers come—but it also has plenty of tradesmen on service jobs, people doing deliveries, visiting friends, or shopping in local stores.

A [better argument](http://www.econlib.org/library/Columns/Mcchesneysnow.html) is put forward by Northwestern University's Fred McChesny: "An economist would predict that permitting private property would incite others to expand the amount of space. And so it does. Not only do those who dug out their cars the first morning have a space thereafter, but neighbors whose cars were not on the street begin to hack away the snow masses created by city plows to make a space for themselves." The result, he writes, "is not just distribution of a given quantity of space, but creation of more space." Absent this guarantee that one's labor will be rewarded with a spot upon returning, there's little incentive for any one person to shovel—and so all cars sit packed in plow-created drifts, which themselves take longer to melt.

There is enough here to sustain a graduate-level political science seminar. But what captured my interest anew was an e-mail I received from Mario Lucero, a law student at Cardozo University, who reported seeing the dibbing practice growing in the Woodlawn section of Queens—a finding [confirmed elsewhere](http://gothamist.com/2011/01/28/friends_dont_let_friends_put_dibs_o.php). This despite the fact it is illegal, as Seth Solomonow, of New York City's Department of Transportation, reminded me. To wit, Section 4-08 of the city's traffic code:

**Unofficial reserving of parking space.** It shall be unlawful for any person to reserve or attempt to reserve a parking space, or prevent any vehicle from parking on a public street through his/her presence in the roadway, the use of hand-signals, or by placing any box, can, crate, hand-cart, dolly or any other device, including unauthorized pavement, curb or street markings or signs in the roadway.

Of course, it's far easier to enforce a violated parking meter than monitor the illegal occupation of public space through street detritus. Unless cops catch a winter dibber in the act, or start staking out plastic chairs, the chances for enforcement are slim. Lucero suggests promoting a campaign of citizen "bin removal," encouraging those who don't like the dibs practice to remove the curbside garbage. As he admits, however, this may be simply prime for future vandalism the innocent parker who comes along to the space you've liberated; what's required is a critical mass of bin removers large enough to introduce uncertainty in the mind of the one whose space has been taken about whether it was in fact the new parker who removed the bins. A far simpler recourse, one suggested by Cohen and others, would simply be to issue tickets, perhaps after a certain grace period, to those cars whose drivers have not shoveled out their parking spaces—the same way homeowners are ticketed for not shoveling their walks. Both are, after all, obstructing public space.

But why does dibs exist in some cities and not in others, regardless of legality? Or in some neighborhoods while not in others? In Chicago, for example, there is a tacit and widespread belief that winter dibs is a "Chicago tradition," the implication being, in notes like [this one](http://www.passiveaggressivenotes.com/2010/02/21/can-you-dig-it/), that violators must be clueless carpetbaggers. However David Hoyt, writing at [the Expired Meter](http://theexpiredmeter.com/?p=1794), points out that the "meat-headed" practice of winter dibs actually doesn't exist citywide (and [has its opponents](http://www.chairfreechicago.org/)). "I'm happy to say that Hyde Park, the Presidential Neighborhood in the Presidential City, is mostly free of this cranky vigilante behavior."

This is where winter dibs gets interesting—not in high legal theorizing or grand political philosophies, but in the on-the-ground formation of social norms. As Robert Ellickson wrote in [*Order Without Law*](http://www.amazon.com/gp/product/0674641698?ie=UTF8&tag=slatmaga-20&linkCode=as2&camp=1789&creative=390957&creativeASIN=0674641698), "large segments of social life are located and shaped beyond the reach of law." Ellickson famously studied "open range" ranchers in California, who relied on a variety of informal mechanisms, rather than the law, to more efficiently settle disputes. But such practices are hardly limited to cattle ranchers: "Most homeowners live in one house long enough to anticipate complex continuing relationships with their immediate neighbors," Ellickson wrote. "They can easily discern when one of them has violated a norm of neighborliness and, because of their continuing interactions, can readily even up unbalanced accounts."

And, in theory at least, this is the kind of "spontaneous order" that winter dibs allows. If a "free riding" neighbor takes another's shoveled space (or even their [shovel](http://www.youtube.com/watch?v=ck1kQA3CUfc)), they can punish that person through gossip or more retributory measures. But is a parking space worth that? As a Chicago DOT spokesman put it, though "staking out a spot may save your space temporarily, it's bound to create problems with your neighbors." The University of Chicago legal scholar Richard Epstein [has noted](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=282512) that on streets where multiple unit dwellings compete for curb space, "it is more difficult to determine who holds the right to dig out the parking space in the first place, so that, where parking is congested, the uncertainty of ownership rights ex post will dim the efforts to create these spaces ex ante."

But there's a larger issue. The economist Elinor Ostrom won a Nobel Prize primarily for her work studying the allocation of "common pool" resources (of which, theoretically, free on-street parking is one), particularly in cases where the famous "tragedy of the commons" had been avoided. As Lawrence Wright and Samuel Huntington observed in *Social Capital*, however, the common-pool arrangements studied by Ostrom depended on a set of vital criteria: Size ("as group size increases it becomes increasingly difficult to monitor the behavior of any one individual"); boundaries ("for spontaneous order to occur, it is important to put clear boundaries on group membership"); repeated interaction ("people worry about their reputation only if they know they will continue to deal with one another"), and a set of prior norms establishing a common culture, among others.

It's easy to see, via this model, why winter dibs emerges in some places and not others. The key factors include real or perceived car dependency (those who don't need their cars are less likely to shovel); population density and demand for parking (the greater the demand for parking, the more willing one is to remove any obstructions); along with some kind of sense (perhaps discussed by neighbors or simply replicated through transmission) that the norm itself exists. But in most urban areas, there are too many competing needs, not enough shared interests, and too much uncertainty over claims and justice. How do we know the person who takes a shoveled-out space didn't shovel out another space somewhere else? How do we know the person who placed "dibs" actually [shoveled out the spot](http://blogs.chicagotribune.com/news_columnists_ezorn/2011/02/time-for-a-dibs-moratorium.html)? Does the person who used a parking space in front of his elderly grandmother's house to drop her off really deserve to get keyed?

And, more distressingly for fans of spontaneous order, the practice is open to any number of abuses which themselves have no clear means of social enforcement. In Boston, for example, people have been spotted claiming "winter dibs" before snow [has even arrived](http://www.boston.com/news/local/massachusetts/articles/2010/02/11/claiming_a_spot_before_shoveling_thats_not_southie/). In Chicago, Eric Zorn, a zealous dibs critic, has been chronicling the saving of parking spaces [where very little shoveling had taken place](http://blogs.chicagotribune.com/news_columnists_ezorn/2008/02/dibs----myth-vs.html). Even more unconscionably, a phenomenon has been spotted that is likely to strike fear into the heart of any urban parker: ["summer dibs](http://chicagoist.com/2010/07/29/have_you_seen_this_summer_dibs.php)."

It's time to bury winter dibs. To paraphrase Yeats,[\*](http://www.slate.com/id/2286175/pagenum/all/#correction) things fall apart, the shoveled parking space cannot hold, mere anarchy is loosed upon the street. Sometimes the state of nature is the best guarantor of civilization.

***Correction,*** ***Feb. 25, 2011:*** *This piece originally attributed the poem "The Second Coming" to Keats. (*[*Return*](http://www.slate.com/id/2286175/pagenum/all/#return) *to the corrected sentence.)*