

Picks Of The Litter

One Man's Junker Is Another Man's Classic

by Lawrence Savell

Life, it is said, is a matter of perception. Two people can look at something and see very different things. A car collector can see a rotting hulk and appreciate it as a potential restoration project. Another person might see it as a pile of junk lowering the aesthetic value of the neighborhood.

Such differences in perception may come into conflict in the context of local zoning ordinances, and claims that the presence of old cars on the disabled list violate such laws. This was the situation in *City of Pierce vs. Lambrecht*, decided on March 26, 1996 by the Nebraska Court of Appeals.

Ray P. Lambrecht owned a Chevrolet franchise for close to 50 years, dealing in both new and used

Lambrecht a letter giving him notice to abate and remove the nuisance within five days pursuant to the city code. The Pierce City attorney thereafter filed charges against Lambrecht for littering. Under the ordinance, "litter" included "any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk...."

Lambrecht pled not guilty.

At trial, the mayor described Lambrecht's vehicles: "Some of them have broken windshields, some of

sions. He explained that bricks and stones had been thrown through car windows and that the penetrating objects had been left inside the cars. Despite the damage, Lambrecht claimed that the cars were "appreciating substantially" in value, that all the cars were "saleable," that none of the vehicles had lost their identity, and that all the cars could be restored completely. Lambrecht further testified that the cars were worth more at the time of trial than at the time he acquired them. Although he admitted that none of the cars in one area had been sold, running, or moved in the past year, he had sold two cars from another area in the past year to rebuilders who had completely restored the cars to like-new condition. He also testified that he did not sell individual parts off his cars, even though he had the opportunity to do so every day from dozens of people all over the United States.

The trial judge, who personally viewed the scene, found Lambrecht guilty. Lambrecht was sentenced to pay a fine of \$100 for each violation, plus court costs. Lambrecht appealed. The Pierce County District Court affirmed. Lambrecht appealed again. In its opinion, the Nebraska Court of Appeals again affirmed Lambrecht's conviction. "The record reflects that Lambrecht owned the property...on which he stored automobiles originally manufactured in the 1950s and 1960s...[W]e find that there is sufficient evidence that Lambrecht's vehicles and parts thereof satisfied the definition of litter...Almost all of the vehicles are rusting on the exterior,

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automobiles. Lambrecht owned property in Pierce, on which he kept "antique type cars that people buy to completely restore." Most of the vehicles were models from the 1950s and 1960s, including Chevrolet Bel Airs and Biscaynes, Dodges, and Studebakers.

The mayor of Pierce told Lambrecht that his cars were a nuisance. Although Lambrecht assured the mayor that he would do something, none of the vehicles were apparently moved. The mayor sent

them have broken back windows, side windows. Some of them are sunk into the ground up to the axle." Further, "They had young saplings growing up between the cars, weeds up over above the hood, up to the windows in the car." The mayor claimed some of Lambrecht's vehicles had no tires whatsoever. He had never seen any of Lambrecht's vehicles in operation.

Lambrecht admitted that some of his automobiles had deteriorated due to vandalism, which ranged from window breakage to stolen transmis-

many have broken windows, and the ones parked on Block 24 appear to be surrounded by long grasses and bushes. Additionally, the interiors of the vehicles appear to be decaying. There is evidence in the record that most, if not all, of these vehicles have not been moved since at least 1981...Lambrecht contends that the vehicles are valuable and capable of repair. Despite Lambrecht's assertions, we place considerable weight on the findings of the trial judge, who visited Lambrecht's lots personally. In conclusion, we cannot say that the trial judge's factual determination that Lambrecht's vehicles and parts thereof constituted litter was clearly erroneous."



The decision in this case illustrates what can happen if you allow the future restoration projects visible on your property to decline without any evidence of your maintaining them. As the Court observed, the original written notice to Lambrecht gave him the opportunity—which he did not exercise—to request a hearing before any charges were filed. It is important if you ever receive such a notice (or any legal document) that you read it carefully and consider whether you might be better served expressing your position in a hearing before charges are filed against you.

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