
MUNICIPAL ORDINANCE - NEBRASKA

City of Beatrice v. Meints

Court of Appeals of Nebraska - March 11, 2014 - N.W.2d - 21 Neb.App. 805

Meints was charged on June 21, 2011, with 12 separate counts of violating Beatrice City Code § 16–623 (2002), which prohibits the storage of junked or unregistered vehicles for more than 21 days and labels any vehicle so stored as a nuisance.

Meints alleged the city code was invalid because it criminalizes conduct which is not criminal under the Nebraska Revised Statutes. He argues that the time limit in the state statute regulating unregistered vehicles is 30 days, that the limit in the Beatrice City Code regulating the same is 21 days, and that there is therefore an irreconcilable conflict which makes the city ordinance unenforceable.

All ordinances are presumed to be valid. However, the power of a municipality to enact and enforce any ordinance must be authorized by state statute. Where there is a direct conflict between a municipal ordinance and a state statute, the statute is the superior law. However, if the ordinance and statute in question are not contradictory and can coexist, then both are valid.

The Court of Appeals disagreed, finding that a city is authorized by Neb.Rev.Stat. § 18–1720 (Reissue 2012) to "define, regulate, suppress and prevent nuisances, and to declare what shall constitute a nuisance, and to abate and remove the same." The Nebraska statutes do not address or regulate the placement or open storage of unlicensed, unregistered, or junk motor vehicles upon private property. This falls within the discretion of the city, as authorized by § 18–1720. In addition, the district court also noted that a similar ordinance regulating and prohibiting junked vehicles was upheld by the Nebraska Supreme Court in *Village of Brady v. Melcher*, 243 Neb. 728, 502 N.W.2d 458 (1993). The general rule is that courts should give great deference to a city's determination of which laws should be enacted for the welfare of the people. See *Giger v. City of Omaha*, 232 Neb. 676, 442 N.W.2d 182 (1989).

"For the reasons stated above, we find that this assignment of error is without merit."

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