MONKEY PARKING

& SPACE SAVING

A HALACHIC ANALYSIS

Rabbi Yosef Y. Ettlinger
MONKEY PARKING AND

SAN FRANCISCO (KCBS)— San Francisco drivers have long been frustrated spending countless minutes trying to find a parking space, but a new app called ‘Monkey Parking’ allows drivers to buy a spot from someone who’s already in it.

On Chestnut Street in the Marina, you need a lot more than parking karma to find a spot. One woman driving around said it’s a desperate situation and that drivers do what they have to do.

So here’s how it works the driver of a car, already parked in a busy neighborhood, connects with someone using the app who is in that dire situation of needed a parking spot. The one searching for a spot shows up and pays up to $20 to take over their location.

‘Monkey Parking’ App Lets Drivers Desperate For Parking Pay Others For Their Space

this would lead to parking-space squatters. Others said ‘bring it on’. One mom said she’d use Monkey Parking because with her kids, sometimes you need to be able to pop in and out of a space.

According to the city, there’s half a million parking spots for a city of 750,000 people then the tens of thousands of visitors each day need to be factored in making for one hairy situation.

Others thought the $20 price tag would be a bit of a stretch considering that’s what drivers pay for parking at a football game, arguing that $10 sounded more reasonable.

The City of San Francisco isn’t sure if it’s a good idea or even legal. The City Attorney’s Office told the San Francisco Chronicle it is investigating whether MonkeyParking’s business model of making a profit off public space is legal.

San Francisco Municipal Transportation Agency spokesman Paul Rose also told the Chronicle officials are also looking into concerns about the parking app.

SAN FRANCISCO (CBS SF) — San Francisco is putting the brakes on a mobile app that allows drivers to auction off their choice public parking spots to the highest bidder.

City Attorney Dennis Herrera Monday issued a cease-and-desist demand to Rome, Italy-based startup Monkey Parking and CEO Paolo Dobrowolny.

Herrera also sent a request to the legal department of Apple Inc. to immediately remove the mobile application from its App Store because Herrera said it violates Apple’s own guidelines on legal requirements for apps.

The Monkey Parking app was launched in April and shortly after the city attorney’s office said it would investigate whether the business model of profiting off a public space was legal.

In Monday’s demand, Herrera cited a provision of San Francisco’s police code “that specifically prohibits individuals and companies from buying, selling or leasing public on-street parking.”

Herrera said if Monkey Parking continues to operate past July 11, it would face a lawsuit under California’s strict Unfair Competition Law and civil penalties up to $2,500 per violation.

Drivers who use the app also face a $300 fine each time they use the app, Herrera said.
MONKEY PARKING AND

SpotPog is a new way to help alleviate the parking challenge. Our innovative platform integrates public parking, private driveways, and commercial garages. We take the frustration out of parking by implementing efficiencies that reduce congestion, improve air quality, and directly aid local community-based organizations.

By working together with local civic associations, business groups, and elected officials, we’re able to provide a win-win solution to drivers, businesses, residents, and our Community Partner organizations.

Find A Spot

- Open the app to find available spots.
- Use your Pogs to swap a free spot or send cash securely to a verified driveway owner using your SpotPog Wallet.
- Let the next driver know when you’re leaving and receive a new Pog when you swap it again. Find out more about how to find a spot here.

Offer A Spot

- Open the app to offer a public spot you’re leaving or list your driveway for a verified user to rent.

We’re all about community. That’s why we started SpotPog: to address the neighborhood issues related to parking and congestion. So when we built our app, we wanted to come up with further ways to positively impact the areas in which we operate.

Our solution? Each time you rent your driveway, you can designate whether you want to receive the cash directly or have it donated to one of our local Community Partners. We’re selecting charities and non-profits in each of our designated neighborhoods to receive these funds, with an emphasis on issues that directly affect the local area.

Community Partnerships

- If you’re listing a driveway, you can choose whether you want to receive cash directly or donate the payment to one of our local Community Partners.
- Feel good knowing that you’re making your community better by reducing congestion and pollution from drivers circling for parking. Find out more about how to list your driveway here.

Fund Your Account

- When you register for SpotPog your account will receive 1 Pog to start to use in areas with free public parking by trading with other users for these spots. Pogs cannot be bought or transferred, so to earn more Pogs you must offer your spot when you’re leaving as well. You can also get more Pogs by participating in promotions like referring other users to SpotPog.
- To rent a driveway, add cash to your SpotPog Wallet using your credit or debit card. Then you can place bids on driveways and other private spots.

Not only can you offer a parking spot to a neighbor; you can also make an immediate impact in your community. To know whether the proceeds from a spot are going to one of our Community Partners, look for the yellow halo around the parking icon.

If you are part of a non-profit or charity organization and would like to become a Community Partner, or you’d like to nominate a group, e-mail us at info@SpotPog.com.
A debtor owes numerous creditors money and does not have enough funds to pay them all back. If one creditor grabs some of the debtor's property to cover the debt he/she is owed, he/she can keep it.

Were creditor 1 to grab property of which he/she has a claim upon, on behalf of Creditor 2 instead, Creditor 2 can keep it.

Since creditor 1 could have grabbed it for him/herself, he/she can grab it for creditor 2 instead.

However, Creditor 1 cannot grab funds which he/she has no right to grab for him/herself on behalf of creditor 2 at the expense of the other creditors.

There is a discussion amongst the Poskim whether creditor 1 can grab funds which he/she has no right to grab for him/herself on behalf of creditor 2 at the expense of the other creditors when creditor 2 hired creditor 1 to do so.

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A borrower is permitted to lend out the borrowed item under circumstances that do not place the item in a more compromised position.

Real estate is rather difficult to damage steal or mishandle, as such it is generally permitted to sublet real estate as long as there is no reason to assume that the sub-lessee puts the property at a greater risk of damage than the estate would be under the initial borrower/renter’s watch.

A renter is permitted to sublet a rented premises throughout the duration of the initial lease; under circumstances that do not place the property in a more compromised position.
**MONKEY PARKING AND**

When legally subletting a premises, the renter is entitled to the earnings from the subletting.

functionality for the duration if the lease of the premises which includes earning profit from the premises functionality.

Hence, any profits illegally earned from subletting chattel belongs to the owner.

By virtue of renting the premises, the renter acquires the right to benefit from the

**LIMITATIONS**

If a landlord retains for him/herself the right to remove the tenant at his/her whim, the tenant may not sublet it and any earnings from an illegal sublease belongs to the landlord.

**LAW OF THE LAND**

Governments may enforce civil laws that benefit the government or its citizens at large.

sholeh zuhor toshoresh millot simton smi' le'ema

As explained above, subleasing movable objects is generally forbidden.

sholeh zuhor toshoresh millot simton smi' le'ema

Goverments may enforce civil laws that benefit the government or its citizens at large.

sholeh zuhor toshoresh millot simton smi' le'ema
“If A has made a serious attempt to procure a piece of real estate, a type of merchandise, or a position of employment and B jumps ahead and grabs it for him/herself; it is evil, unless the opportunities are ‘one of a kind.’

There are those who prohibit B from interfering even when the opportunity is one of a kind. The accepted approach is not to view B as evil if the purported real estate, merchandise, price or position of employment is one of a kind.

When we cannot tell B “why not extend effort somewhere else to procure it – we can no longer view B as evil for being swift.

Although Shulchan Aruch rules that one may rely on Tosafos’ opinion that no restriction applies on jeopardizing another’s one of a kind pursued opportunity, as Shulchan Aruch does quote Rashi’s opinion as well, it is appropriate for an individual who yearns for holiness to act with stringency and abstain from interfering with a fellow’s pursued opportunity although it is one of a kind.
One who provides information and brings two business/marriage partners together is entitled to a finder’s fee in accordance with the local accepted custom.
**Monkey Parking and SpotPog** could invoke the following Halachos:

Subleasing or relending movable objects generally is forbidden unless the first user is certain that the owner does not mind for the secondary user to borrow/sublease it [Choshen Mishpat 342: 1].

In contrast, barring preconditions, as it is more difficult for one to destroy, or lose real estate than movable objects, one who borrows or leases the functionality of real estate for a specific period of time may generally sublease the property to another, provided that the second tenant does not prove more of a risk than the original tenant did to the structure of the property [Choshen Mishpat 316, 363: 10 see Nesivos Hamishpat & Ketzos HaChoshen].

When a borrower or renter legitimately subleases the borrowed/rented property, the proceeds belong to the renter [Choshen Mishpat 363: 10 Rema].

When a borrower or renter illegitimately subleases the borrowed/rented property, the proceeds belong to the owner [Choshen Mishpat 363: 10 Rema].

Additionally, were a renter or borrower to sublease the rented/borrowed real estate, when the owner retains the right to demand the termination of the initial loan/rental at whim, the proceeds of the secondary rental belong to the owner [Choshen Mishpat 316: Rema].

A head-hunter, real estate agent, and matchmaker may charge the beneficiary for having provided him/her information in accordance with local custom [Choshen Mishpat 185: 10].

A citizen of a country is obliged to comply with local civic laws enacted for the benefit of the government or its citizens [Choshen Mishpat 369: 11 Rema].

A Jew is required to adhere to common courtesy even when Halachic Law technically permits a particular activity [RSRH Devarim 33:29].

Once one’s fellow extends a significant effort into pursuing a piece of real-state, purchase, job opportunity, it is evil for a second fellow to interfere with the first’s pursued opportunity. Instead, the second individual is required to permit the first fellow to choose to consummate the pursuit and rather bother him/herself with attempting to pursue an alternative opportunity. According to the strict letter of the law, the second individual may attempt to overtake the first fellow’s pursuit if the opportunity is one of a kind the likes of which the second fellow cannot find an alternative. Nonetheless, it is virtuous for one aspiring for holiness to permit the first fellow to consummate the pursuit even when no alternative exits for the second fellow to pursue for him/herself [Choshen Mishpat 237 , Shulchan Aruch HaRav Ani Mehapech 13].

A debtor owes numerous creditors money and does not have enough funds to pay them all back. If one creditor grabs some of the debtor’s property to cover the debt he/she is owed, he/she can keep it.
MONKEY PARKING AND SpotPog

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APPLICATION

If you paid to park in a spot for two hours, can you leave early and give the spot to someone else? Yes. Can you rent it out to someone else? Yes – You rented the functionality of the spot for two hours. If you want you could put balloons there too!

The municipality effectively lends you a spot on the street to park your car. Before discussing specific municipal laws, say a friend lent or rented you a spot may you lend or rent out the spot that you borrowed? If your friend would lend it to you for a specified time period of which he/she could not indiscriminately force you to leave, you should generally be able to lend or rent out the spot during that duration of time so long as there is no reason to assume that the parking spot owner would not want the second individual in the spot. If your friend lent you the spot and allowed him/herself the right to kick you out at his/her discretion, any subletting earnings would belong to your friend.

Though the municipality lends you the spot within which you could park your car, they could at any time issue an ordinance, suspend parking rights and order that your car be removed. As such, any “rent earnings” that you would garner from renting the spot should belong to the city.

Hence, earning money from renting out a free municipal parking spot is not an option. Theoretically, the same should apply to the “Pogs” one earns from swapping spots – it’s just that Pogs have no value to the city!

What about charging money for providing information? Theoretically, like a head hunter or real estate agent, one is permitted to charge money for providing a recipient with information. Similarly, as long as an individual is permitted to park in a specific spot, why can’t he/she charge another fellow to convince him/her to leave the spot?

As such, both receiving money or Pogs for providing information and agreeing to move out should be permissible.

Of course, Halacha requires one to abide by municipal civic laws enacted for the good of the government or society. As of the writing of this article, San Francisco has banned the use of Monkey Parking and levies hefty fines on transgressors. SpotPog on the other hand has been hailed by many New York politicians.

Thus, in San Francisco it is forbidden to use Monkey Parking and in New York it would be permitted to use SpotPog.
MONKEY PARKING AND SPOTPOGGING

Parking Questions:

If you SpotPogged someone, drove up to his/her spot and found someone else waiting for the spot, may you jump ahead of him/her claiming that you SpotPogged?

What should one do if he/she arranged to SpotPogg someone and sees his/her father passing by looking for a spot for himself?

May you park in between two spots to save one for your married children?

Before we discuss the technicalities of these dilemmas, we will preface our remarks by stating that A Jew is required to adhere to common courtesy even when Halachic Law technically permits a particular activity [Rav Shimshon Rephael Hirsch Devarim 33:29].

More to come...

...
In Issue 226 we discussed the SpotPog app. where you earn points by giving your spot over to a fellow spotpogger.

Points (Pogs) entitle you to information on available spots the next time you are looking for a spot.

Failure to act courteously with a fellow pogger can result in a low credit rating and compromised rights of app usage.

We left off with some questions:

- If you SpotPogged someone, drove up to his/her spot and found someone else waiting for the spot, may you jump ahead of him/her claiming that you SpotPogged?
- What should one do if he/she arranged to SpotPog someone and sees his/her father passing by looking for a spot for himself?

What is the Law?

THE SOURCES

III. KIBBUD AV: HONORING AND REVERING PARENTS

Sh'mot 16:2

This is a verse

Revere your mother and father
One must be very careful regarding the honor and reverence of one's parents.

A child is required to find a quality within his/her parent(s) in which the parent is unique, focus on it and develop an internal respect for the parent as a result of that attribute [R. Chaim Shmulevitz zt"l].

Kibbud Av is rooted in gratitude to them for providing you with life and its opportunities.

The root of the mitzvah to honor parents is that it is fitting for a person to acknowledge and return kindness to people who were good to him, and not to be an ungrateful scoundrel, because that is a bad and repulsive attribute before God and people. And to take to heart that your father and mother are the reason you exist in the world, and for that it is truly fitting to honor them in every way and give every benefit you and, because they brought you to the world, and worked hard for you when you were little.

Once you take this idea to heart, you will move up from it to recognize the good of the Blessed God who is the cause of you and all your ancestors until the first man, and took you out into the world's air, and fulfilled your needs every day, and made your body strong and able to stand, and gave you a mind that knows and learns, for without the mind that God granted you, you would be "like a horse or a mule who does not understand" (Ps 32:9). And you should think long and hard about how fitting it is to be careful in your worship of the Blessed One.

When given a tablecloth, the recipient shows the benefactor how he/she uses it well and expresses his/her gratitude. The recipient does not return it to the benefactor. That's ingratitude!

Similarly, gratitude requires that a child must use the life that his/her parents gave him/her and make the best of him/herself and revere his parents, care for them even at an inconvenience, show them respect and not disrespect them. Gratitude for giving him/her life does not include giving up the life parents gave him/her in order to serve them.

This concept can be seen through the following Halachos amongst more [Rav Yitzchak Berkovits].
Honoring one's parents includes serving them and helping them with their physical and emotional needs. It is imperative to serve them gracefully and in a kind and respectful manner.

A child is required to bother and inconvenience himself/herself and forfeit potential financial gains and opportunities in order to involve himself/herself in caring for his father provided that he has enough for himself for that day.

If by serving the father, the child will not be able to feed himself/herself, or the child will be forced to accept charity to support himself, the child is henceforth exempt from busying himself with caring for his father.

The Poskim explain that this concept is not limited to finances.

A child is not required to jeopardize his physical or emotional well-being, spiritual development, marriage etc. to care for his parents.

Similarly, if the father can afford it, the son is not required to spend money on his father's feed.

Instead, the father pays for the food, the child bother's himself and forfeits opportunities in order to care for father as well as paying for the means of getting to his father.
The Answers:

- As of the writing today, you should not jump in front of the car who got there first.
- You should give the spot to your father.

Detailed Explanation

SpotPog II & III could invoke the following Halachos:

A Jew is required to adhere to common courtesy even when Halachic Law technically permits a particular activity [RSRH Devarim 33:29].

II Ani Hamehapech Becharara: Tortious Interference

1. Once A extends a significant effort into pursuing a piece of real-state, purchase, job opportunity, it is evil for a B to interfere with the A's pursued opportunity.

2. Instead, B is required to permit A to choose to consummate the pursuit and rather bother him/herself with attempting to pursue an alternative opportunity.

3. Significant effort includes (1) reaching a verbal agreement to carry through with the deal (2) the opportunity is "already in the first one's net."

4. According to the strict letter of the law, B may attempt to overtake A's pursuit if the opportunity is one of a kind the likes of which B cannot find an alternative.

5. Nonetheless, it is virtuous for one aspiring for holiness to permit the A to consummate the pursuit even when no alternative exits for B to pursue for him/herself [Choshen Mishpat 237, Shulchan Aruch HaRav Ani Mehapech 13].

III Kibbud Av: Honoring Parents

1. Honor your father and mother [Shemos 20:12]

2. One must be very careful regarding the honor and awe of one's parents [Y.D. 240: 1].

3. A child is required to find a quality within his/her parent(s) in which the parent is unique, focus on it and develop an internal respect for the parent as a result of that attribute [R. Chaim Shmulevitz zt"l].

4. Kibbud Av is rooted in gratitude to them for providing you with life and its opportunities [Sefer HaChinuch 33].

5. When given a tablecloth, the recipient shows the benefactor how he/she uses it well and expresses his/her gratitude. The recipient does not return it to the benefactor. That's ingratitude!

6. Similarly, gratitude requires that a child must use the life that his/her parents gave him/her and make the best of him/herself and revere his parents, care for them even at an inconvenience, show them respect and not disrespect them. Gratitude for giving him/her life does not include
MONKEY PARKING AND

This concept can be seen through the following Halachos amongst more [Rav Yitzchak Berkovits].

7. Honoring one's parents includes serving them and helping them with their physical and emotional needs. It is imperative to serve them gracefully and in a kind and respectful manner [Y.D. 240: 4].

8. A child is required to bother and inconvenience himself/herself and forfeit potential financial gains and opportunities in order to involve himself/herself in caring for his father provided that he has enough for himself for that day.

If by serving the father, the child will not be able to feed him/herself, or the child will be forced to accept charity to support himself, the child is henceforth exempt from busying himself with caring for his father [Y.D. 240: 4].

9. The Poskim explain that this concept is not limited to finances. A child is not required to jeopardize his physical or emotional well-being, spiritual development, marriage etc. to care for his parents [Maharik shoresh 166: 3, Y.D. 240: 25].

10. Similarly, if the father can afford it, the son is not required to spend money on his father's feed. Instead, the father pays for the food, the child bother's himself and forfeits opportunities in order to care for father as well as paying for the means of getting to his father.

Applications

Let's return to the dilemmas:

We emailed these "ethical" questions to the CEO of SpotPog.

(BTW surprise! little did we know, but the CEO Davens in Fifth Avenue Synagogue!)

The details he provided in his response below have Halachic ramifications.

"As a practical matter we ask users to understand that all swaps will not be completed and the app provides for failed transactions.

The most common incident will be where another comes to the parked car and demands that he was there first and entitled to the spot irrespective of the anticipated swap. We ask that users not get into fights over spots and just assume that most, not all, swaps will be successful."

II

So it seems that even Mr. SpotPog agrees that SpotPog swaps are merely anticipated. We would argue therefore that the guy who pulled up first would be considered the mehapecch and potential SpotPogger should yield to him/her even if he/she does not "demand" it like Mr. SpotPogger insinuated. (It could be that this could change in a few years if most people begin using SpotPog.)

III

Now for your father:

It seems clear that you must give the spot to your father and fail the transaction even at the expense of losing a point which could result in you having to trouble yourself a little more at some later point to find a spot.

A child is required to trouble themselves to give his/her parents their needs. Moreover, not giving it to your father is not only a lack of respect, but it's disgraceful.

We would not assume under general circumstances that risking having to circle for a spot at a later time...
Monkey Parking and SpotPog

(because you forfeited an opportunity to earn a Pog) is a sufficient enough loss to be considered like someone who does not have food to eat that day or whose involvement in serving the father would jeopardize his/her well-being.

A G parked on a free city spot. He pulls out and puts a chair in the spot with the hope that people will respect that he worked so hard to clear the space, and as a result not park in there. A G hopes to return in nine hours after work and park again in that spot. Shortly thereafter, B A drive by.

May B A park in the spot?

What is the Law?

Space Savers I

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May B A park in the spot?

What is the Law?

The Source

Extreme Levels of Pursuit

משנה מסכת גיטין ה: ה
**MONKEY PARKING AND**

A poor man who risks his life to climb a tree and shake down the olives for himself. The olives fall down below. One may not pass under the tree and take them even if there are no other olives available.

**THE ANSWER**

It Depends upon the Neighborhood. See Detailed Explanation

**.Detail Explanation**

Space Savers I can invoke the following Halachos.

_Ani Hamenakef B’rosh Hazayis_

[Note: This is more stringent level than a standard _Ani Hamehapech_: the regular laws of Tortious Interference we discussed above]

_A poor man who risks his life to climb a tree and shake down the olives for himself. The olives fall down below. One may not pass under the tree and take them even if there are no other olives available _[Mishna Gittin 5:8_].

1. When _A_ has extended extreme levels of effort, it is forbidden to interfere with _A’s_ pursuit even if no alternative exists.

2. There could be three different classifications of "extreme measures of effort" _[Nachlas Tzvi Choshen Mishpat 237_]

   a) "_A_" has slightly endangered his/her life with the pursuit thereof _[Sh"ut Maharashal 36_].

   b) "_A_" overcame great obstacles and is sure to obtain the article etc. barring unforeseen interferences _[Mas’as Binyamin 27_].

   c) "_A_" invested significant resources in his/her pursuit thereof _[Maharik_].

Thus, if _B_ encounters a phenomenon whereby _A_ either slightly endangered his/her life in the pursuit thereof, overcame great obstacles and/or as a result of his/her pursuit is rationally fairly certain that he/she will obtain the pursued opportunity, _B_ must not interfere with _A’s_ pursuit.

**Application**

Digging out a spot for two hours in the frigid winter definitely meets the criterion of overcoming great obstacles, at times investing significant resources and even endangering one’s life at times, so really _B_ should respect _A’s_ efforts in digging out a spot for himself and not park in the spot _A_ dug out even if other spots are hard to come by.

But does _A_ rationally rely that when he/she returns after work that he/she will find the spot still empty?

_That depends on the type of neighborhood..._
MONKEY PARKING AND

If A is not going to get it anyway - what virtue is there in not parking there and allowing someone not bound by the Torah's code to fill it instead [MaHarshdam].

Another Consideration:

If there is a possibility that parking in that spot will create a Chillul Hashem, it is categorically forbidden to park there.

Note:

There are in fact customs in various cities regarding what they call "Space Savers".

In Boston after the Blizzard of 2015: Mayor Walsh announced:

Mayor Walsh says if you spend 10 hours shoveling out your parking space, its yours for a couple days. #blizzardof2015.

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1 Harav Chaim Leib Shmuelevitz, (1902–1979), was a member of the faculty of the Mirrer Yeshiva for more than 40 years, in Poland, Shanghai and Jerusalem, serving as Rosh yeshiva during its sojourn in Shanghai from 1941 to 1947, and again in the Mirrer Yeshiva in Jerusalem from 1965 to 1979.