

THE CHARDONNAY LADY REVISTED: SHE MAY BECOME A MONUMENT [from April 1998 issue]

Thanks to the savvy of at-large Councilmember Carol Schwartz, we may finally get a resolution of a nasty matter that has really had people around the city pretty furious--probably thanks to the reporting by this newspaper last summer.

As first reported by us (and because we did not know her name), the Case of the Chardonnay Lady became a cause celebre, especially among homeowners who viewed the police action about which we reported ("From the Publisher's Desk," InTowner, June 1997, page 2) as an ominous portent of a possible increasing campaign of Gestapo-like actions against persons enjoying a glass of wine or beer or cocktail on their front porch or in their front yard.

The issue was further reported in our story at summer's end detailing an outrageous raid on three young people who were enjoying a quiet beer on their front porch. ("Police Storm Front Porch, Arrest Residents Without Explanation--Crime: a Beer," InTowner, September 1997, page 1).

What we learned during our investigations is that the police (whether it was from commanders or just loony officers), in their wisdom (sic) had determined that the way to ensure "quality of life" law enforcement was to handcuff, arrest and fingerprint middle-class taxpayers who were doing nothing more than trying to enjoy their own homes and gardens for which they pay lots of real estate taxes. Apparently, "quality of life" crimes did not, in the view of those commanders and/or officers include aggressive panhandling, drug dealing, muggings or murders.

What we also learned was that these same officers believed that because the front yards and porches and even bay window overhangs are technically on "public space" they could arrest anybody from those places who had a drink, even though the law has always assumed that the homeowners and legal occupants had exclusive custody and control of those spaces. We were even told by some officers that it was their belief they could storm into a house if they saw someone sitting with a drink inside a bay window that was technically built out over public space, notwithstanding the legal easement granted to the property owner. In fact, we were told that citizens are subject to arrest if they can in any way be seen with an alcoholic beverage in hand from anywhere outside the premises, such as a cop standing in a back alley peering into a kitchen window or back into a strictly private garden!

Pretty scary stuff.

Notwithstanding our several reports and many letters to the editor which we printed over the course of several months, including one in August from the Chardonnay Lady herself, we received no indication that anyone in city government cared one whit about the demoralizing effect this nonsense was having on taxpayers. That is, not until members of the City Council received a thoroughly researched and authoritative memorandum from Franklin E. Kameny, who, thanks to his intellectual prowess and brilliant analysis, finally set out for all to see why this enforcement initiative was not only misguided, but was not supportable as a matter of public analysis, finally set out for all to see why this enforcement initiative was not only misguided, but was not supportable as a matter of public policy going all the way back to the

earliest years of the city's existence.

Now comes at-large Councilmember Carol Schwartz with a piece of corrective legislation, the language of which was suggested by Dr. Kameny, which was being introduced the very day we were writing these comments.

Her proposed corrective legislation would simply create an exception to the public drinking law that would permit owners or residents of property, and their guests, to drink on and within certain areas that are technically public space but which are actually the areas which the property owner considers his or her own, and which the law in effect guarantees an easement--essentially, extensions of the residence, such as the front steps, porch, bay windows, and even the extending underground vaults.

As Mrs. Schwartz emphasized in her public statement, "all other provisions of law concerning public drinking remain in effect. A person who becomes drunk and disorderly, or who commits another crime while intoxicated can still be arrested. . . . The bill merely permits the quiet use and enjoyment of a section of a person's property on which they may have been permitted to build, and which they are [by law] required to maintain, though it is technically part of the public space."

She could not have stated it better. Isn't this what "quality of life" is supposed to be about-- "quiet use and enjoyment of . . . a person's property"? Let's hope the other council members sign on to this bill and support it. There's no reason to keep an archaic law on the books which can be used to harass citizens for no good reason and there is certainly no reason to retain a law that is effectively interfering with our supposedly Constitutionally-protected property and civil rights. Council members who join Mrs. Schwartz on this will have our gratitude and admiration--and the Chardonnay Lady will have a monument.

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