

Dismissed!

Malicious prosecution attempt of Ed Strader by City failed.

By Ed Strader, Ph.D.

District Attorney Jon Forwood dismissed the charge of breach of the peace [WS6-6-102(a)] against me on May 10, 2005.

My thanks to my attorneys Gay Woodhouse and Lori Brand for their efforts in my defense.

For those readers not familiar with my case: I received a letter on Friday, March 18, 2005 stating that I had been contacted previously concerning money due the City of Cheyenne in the total amount of \$254.99.

The letter went on to state that if I did not pay in full - or make payment arrangements within 14 days (See Note A.) from the March 17, 2005 date of the letter - my account would be referred to the city's collection agency.

The letter was signed by Marty Hartigan, Accounts Receivable Clerk. The March 17, 2005 date was handwritten over white-out of an earlier typed date. Also handwritten in the lower left corner was the note: Invoice # 34757 - \$165.00, \$82.50, and an interest charge of \$27.20 which totaled \$274.70.

First, I had not been contracted previously. Second, that letter gave no indication for what the charges were being levied or when or where they originated. Third, two different amounts due were shown: \$254.99 and \$274.70.

On my third telephone call on Monday, March 21, 2005, I was able to determine the charges were for nuisance abatement at 1006 Richardson Court, a six-unit apartment building that I had sold on December 5, 2003. The charge was subsequently determined to be for removal of 13 appliances with lids. The City Sanitation Department apparently removed four refrigerators and nine washers, dryers and stoves. The inadequate records show Sanitation removed the appliances in an extra pick up on April 28, 2004. The removal order was received at Sanitation at 4:16 pm on April 28, 2004.

Sanitation employees involved in extra pick ups leave at 3:00 pm. In short, the appliances were almost certainly not removed on April 28, 2004.

In my telephone conversation with Ms. Hartigan on March 21, 2005, I told her (1) that I had not been notified previously; (2) that I did not own the property in April 2004, and (3) that I wanted any attempts to collect these charges from me to cease.

Ms. Hartigan said that she could only do what Nuisance Officer Jerry Hayes told her to do. I contacted Mr. Hayes. He told me that I had to deal with the Accounts Receivable Clerk - Ms. Hartigan. I found myself in a continuous circle where no one would address or solve or eliminate my problem.

I tried unsuccessfully to contact Police Chief Bob Fecht, Mr. Hayes's supervisor. I also tried unsuccessfully to contact City Treasurer Barb Dorr, Ms. Hartigan's supervisor.

My next call was to Mayor Jack Spiker's office. Mayor Spiker apparently received my complaint from his staff and, instead of calling me back to try to solve the problem, he referred it to the City Attorney's office where it came to be handled by Assistant City Attorney Claudia Angelos.

I had also appealed to Ward III City Councilman Rich Wiederspahn who contacted Ms. Dorr, who contacted me. From the conversation with Ms. Dorr, I learned that the City Attorney's office was handling the matter.

I then called Ms. Angelos who told me that she was too busy to speak to me on Monday, March 21, 2005. She also told me that I needed to prove I did not own the property in late April of 2004 when the nuisance abatement work was performed. This conversation took place some time around 11:00 am on March 21, 2005.

After lunch I went to the Laramie County Clerk's Real Estate Office and obtained a chain of title showing a memorandum of sale executed on December 5, 2003 and recorded on December 11, 2003 for the property at 1006 Richardson Court.

I proceeded to the City Attorney's office and presented the chain of title to Ms. Angelos. I shouted at Ms. Angelos and used mild profanity since I was becoming increasingly upset that no one was even making an attempt at solving my problem. I also presented the chain of title document to Ms. Hartigan and Mr. Hayes before returning home sometime around 2:30 pm.

About 5:00 pm on March 21, 2005, two Cheyenne police officers arrived at my home with two citations for violating the city code. One was for a profane and threatening phone call and the other was for "using profane, obscene, or provocative language directed toward another or others and calculated to provoke a breach of the peace."

One of these police officers also told me that I was not to visit the Municipal Building without a prior appointment and then only with a police escort. According to Police Chief Bob Fecht, this verbal order no longer applies as of Friday, May 13, 2005.

To me, the filing of these charges illustrated the low level to which the administration of Mayor Jack Spiker has sunk.

All that was necessary to solve this problem was to recognize I did not own the property at the time the nuisance abatement charges were incurred.

Mr. Spiker could have returned my phone call and determined that the City was in error. Instead, he involved the City Attorney and the Cheyenne Police Department resulting in not one but two misdemeanor criminal charges against me for protesting the city's unwarranted action in trying to collect money from me more than fifteen (15) months after I sold the property and more than ten (10) months after they did the work.

Furthermore, the City threatened to besmirch my credit by turning the account over to its collection agency.

Another footnote: The two City charges were dismissed at the City's request, but subsequently a State charge of breach of the peace was issued against me.

This second (State) charge was not issued until April 19, 2005 - almost a month after the initial charges. This action necessitated a new response to these unfounded charges by my attorney.

My attorney said in my initial meeting with her that no decibel constraints apply to free speech.

Also, Jerry Hayes, the nuisance control officer, is certainly not blameless in this matter since his records were extremely inadequate and he is not following city code which requires notification by certified mail with a return receipt requested when citizens are notified of violations of nuisance control rules. Mr. Hayes also obtains his property ownership information from the County Assessor rather than from the County Clerk's Real Estate records where current information is available.

Again, my thanks to District Attorney Forwood for dismissing this charge which along with the preceding charges should never have been filed. I suspect the charges were filed at the insistence of the City Attorney's office.

The whole criminal action, in my view, was a reprisal for my previous criticisms of actions taken by the Spiker Administration. Furthermore, such actions as these citations are designed to intimidate me and other citizens in the exercise of their constitutionally guaranteed rights to free speech.

This action was a naked abuse of police power designed to inhibit free speech.

As noted in the last issue of the HERALD, I received a letter from the Code Enforcement Office as of April 27, 2005, forty (40) days after the letter of March 17, 2005, saying that the nuisance abatement billings would be written off.

This action was actually more than I was asking on March 21, 2005. I did not care if the billings were written off or not. I just wanted the City to stop attempting to collect them from me since I did not own the property at the time of the nuisance abatement action.

Unfortunately, this letter came very much later than the criminal charges for which I was cited on March 21, 2005.


Note A. In addition to not sending the notice of violation by certified mail, return receipt requested, as required under City Code Section 8.60.160 B., Code also provides for a 30 day period to correct the violation before "appropriate actions" will be taken toward collection, "including, but not limited to, referral to a collection agency,"

Editor's note: Much of the content in this story has been presented to Herald readers previously. But the underlying story, in my opinion, is the potential chilling effect such heavy-handed and unwarranted use of the police department against private citizens of this city may have.

There are those who do not have the financial resources, conviction of personal principles, confidence of knowing right from wrong, and the pugnacious qualities that Ed Strader possesses, who will go silently into the night rather than risk having police officers come to their door late at night; receive citations for which they'll have to hire an attorney to defend; possibly have to plea bargain the charges to avoid higher legal fees; have the City bounce the charges from court to court; and have their constitutional rights of access to public buildings taken from them over an insignificant matter. While it may be still be uncertain that this imperial behavior on the part of the mayor and city employees has already accomplished what it set out to do - silence critics - I honestly believe that it has. Seeing the lengths this administration is willing to go to against friends, imagine how far they'll go against their real enemies.

I decided to print Ed Strader's full recounting of this unconscionable action taken against him (demanding that he pay a bill that did not belong to him) simply because he dared to object in a loud and mildly profane manner.

The telling warranted the space.
1st Dave Featherly



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