

## LESSONS LEARNED FROM DUMPING ON VACANT LOT

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When we saw the construction debris dumped on the vacant lot on Cherry St. between Forest and James, it appeared to be a blatant violation of law. When we investigated the IEPA regulations, as they appear on the web, it seemed open and shut – this was construction/demolition debris, from a burned structure, that must be dumped in an EPA approved site. We were, therefore, more than skeptical when the city code enforcer said it was clean dirt. And we were dubious about the inspector for the Jackson County Health Department, particularly since he was pinch-hitting for the IEPA employee who is trained to handle these cases. But when the inspector from the IEPA told us it was legal, we had to accept his word.

I realized something I had, in my outrage, forgotten: In any fight, one must be prepared to be proven wrong. It had never occurred to me that we were not correct. Home Rental's actions – dumping debris-laden dirt, laced with residue of a house fire, from a construction/demolition site onto an unfenced, widely used vacant lot in the middle of a residential district seemed obviously wrong. However, after talking with the man from the IEPA, I realized that he cannot use commonsense standards; rather, he must be able to make his determinations stand up in court. And there simply didn't appear to be enough forbidden materials in the fill, when he inspected it, to have a sustainable and defensible legal case. In fact, the fellow from the Jackson County Health Department helpfully pointed out that there uneven spots in the lot that would be filled in, a key to legal dumping as well.

I realized that standards that a person in our neighborhood might be held to – by moral suasion or by law – are not standards that can easily stand up in a court of law if you have the best lawyers money can buy. And that is, after all, what we're facing as we attempt to petition our government officials about slumlord abuses.

Henry Fisher, through the business entity he founded, Home Rentals, has grossed hundreds of thousands of dollars monthly (by some estimates almost \$1,000,000 cash flow monthly). He has a history of fighting every restriction in the courts. Now he is incarcerated for child sexual molestation and so it is not clear what, if any, role he plays in the enterprise. Nonetheless, he seems have set the gold standard for predatory behavior in Carbondale.

For many years I have tried to understand how this city was destroyed. No other college town I know is as blighted as this one. Why are we so dismally unique? I think this small dumping episode reveals one aspect of why. It appears to be a process of powerful landlords pressing the boundaries of the law, and in so doing clearing a space for smaller fry to act as copycats.

So, we have smallholders who stand up at a public meeting (Planning Commission Hearing, 6 Oct. 2002) and declare that they are “good landlords” – despite the fact that, as they spoke, the screen doors on some of their properties were hanging from their

hinges, that many of them were bestrewn with trash, and landscaping was poorly maintained. Heaven help the students who live in these dangerous dumps.

In a city in which the codes were vigorously enforced, the standards for “good landlords” would be far higher. The example of Henry Fisher lives on to inspire more predatory behavior, and thus lower the bar.

Laws only work when citizens have confidence that they will be enforced. Then most people stay well within the boundaries – both because of a reasonable fear of the consequences, and because they accept the moral compact implicit in the rule of law.

When, however, one or a few powerful individuals or firms repeatedly push the laws to their limits, and when they manage to escape the punishments of law – as has sometimes been the case regarding powerful landlords – then the rule of law evaporates. The boundaries are meaningless. The way is cleared for putatively “law-abiding” people to move into the vacuum that is created. Thus the emergence of the “good landlords”.

I learned another thing: The slumlords have eyes and ears in significant places. The first word about the dump occurred on Thursday afternoon. By mid-day Friday the visible illegal debris had been cleaned out of the dump. No sewage pipe, no re-bar, no PVC tubing, no trash bags. And the dumpster that held trash had been removed. Someone had obviously been told that there were illegal substances visible in the dump. Then on Sunday we noted that the lot had been posted with “No Trespassing” signs – undoubtedly a response to the concerns we expressed late Friday afternoon to the IEPA about the dump being an attractive nuisance.

I am always fascinated by the way power operates – the power of those whose influence comes from money, the power of those who draw on moral and other “community standards;” the power of those in elective office and the power of bureaucracy. We have few financial resources in our neighborhood, but we have skills, some have time, and we have the passion of people whose homes and neighborhood are at stake. And, in a small town, we are a large voting bloc who can successfully appeal to our political leadership.

As we come to understand *and name* those who have brought our neighborhood, and much of this town, to the edge of ruin, we will develop clearer and more effective strategies for bringing back the rule of law. In doing so we will redraw the boundaries of acceptable behavior.

I hope, in the near future, that the governing business culture that has allowed slumlords to recklessly abuse their tenants, mine their houses, and degrade their neighborhoods will radically change. When that happens, our neighborhoods will improve as well. One could anticipate that our university enrollments will stop dropping and high-end businesses will see that this is a good place to set up shop. Who knows, even the extraordinarily high crime rates might come down.

The era of lax enforcement must cease.

So, lessons learned:

- 1) **Be aware that we can lose, and seek the reasons.**
- 2) **If powerful actors make laws unenforceable, others will emulate them and the rule of law will fail.**
- 3) **Powerful interests will immediately learn of any actions that affect them and move quickly.**