

November 28, 2001
385 El Dorado Avenue
Palo Alto, CA 94306

Lisa Grote, Chief Planning Official
Planning and Community Environment
250 Hamilton Avenue
Palo Alto, CA 94301

Dear Ms. Grote,

I have had two phone conversations this month with Code Enforcement Officer Chris Fujimoto. He has been consistently pleasant, polite, patient and, I believe, **wrong**. I understand from him that he reports to you. I understand that a supervisor's first impulse is to side with her staff, especially when they are dealing with the public. But please hear me out. If he is carrying out a directive from you, I want you to verify that for me. If not, he may be operating under a false assumption.

In my first phone conversation with Officer Fujimoto on November 7, I had questions about the letter he had written regarding a violation of Section 8.04.050(a)(8). I told him that I had done some pruning, both in the planting strip (which had been requested) and on the corner of the lot (which I had done voluntarily). In my judgment, the pruning made it possible for anyone *stopped* at the stop sign to see to the next intersection or beyond. Because the officer was enforcing the code based on a citizen complaint of an unsafe condition, I wanted him to meet with me and tell me what else I needed to do to meet the safety concerns of the complainer. He said if the entire length of the planting strip had not been pruned to height of two feet, there was no reason to meet with me.

I have lived at the same address since 1966. For over 25 years I have tried to prune the planting strip in a reasonable manner but sometimes during those years the shrubs have grown faster than my efforts to keep them under control. In more than one of those cases I have dealt with a code enforcement officer who had worked with me and been willing to use his judgment in deciding what was safe and fair. Officer Fujimoto said he would **not** do that because this particular case was a **high-profile case involving a community association**. When asked if he had been directed to treat this case especially strictly he would not say but he did say that he felt that if he did not ensure that the planting strip was pruned to two feet that he could be reprimanded. I believe this is a fair interpretation of Chris Fujimoto's position and I tried to verify this with him in a second phone conversation on November 21.

I would like *you* to consider both **safety and fairness** in this situation.

If any plant over two feet tall in a planting strip is a safety hazard, then the city is indeed unsafe with dozens, possibly *hundreds*, of code violations. Some people I have talked to say that if I were to lodge complaints about all of these, that city officials would see the

inconsistency, even *absurdity*, of acting as if taller plants are a safety hazard but enforcing the code on a complaint only basis. I don't intend to make official complaints because I don't want to cause trouble for either my neighbors or the city just to prove a point. I also don't believe that all taller plants constitute safety hazards.

Consider fairness. It is a deeply held belief of most Americans that no one is above the law, that laws should be enforced in an even-handed manner. The policy of enforcing code on a complaint only basis, keeping the identity of the complainer confidential, and then refusing to use any judgment in enforcing the code flies in the face of this belief. The complainer may be concerned about safety or keeping the city tidy. He may be concerned about maintaining the public right of way or about just being right. She may be frustrated with the city or with life. He may want power, control, or recognition. Her complaint may be valid or picayune. He may be altruistic or vindictive. You get the idea. If the code enforcement officer cannot use any judgment in the matter, it amounts to handing *complete* power to the complainer. The officer becomes merely a messenger.

Ah, but the municipal code *does allow* the code enforcement officer to use *common sense* in balancing the complaint of one person and the good of the community. Section 9.56.010(1)(a) reads in part, "Abate means ... to remedy the condition in question by such means and in such manner and **to such an extent** as the enforcement officer in his **judgment** determines is necessary in the interest of the **general** health, safety and welfare of the community."

This is where I believe the officer is *wrong*. It is particularly galling that he seems to be handling this case in a special way because of **political pressure**. Yes, plants in the parking strip are over two feet high, but not just at this location. If I had confidence that the code were being enforced evenly, I would not be happy but I would be compliant. I do not have that confidence and I will not meekly submit to what I consider unfair treatment.

If you are in complete agreement with the way this case is being handled please let me know. If not maybe the officer needs some quiet coaching from his supervisor. If you are being directed by a superior to handle the case in a particular way, I would like to know that too. In any case I want an acknowledgement that you received this letter. I can be contacted by e-mail at kay@leibrand.org, by phone at 326-8124, or by mail at my home address.

Sincerely,

Kay Leibrand