

TULANE LAW REVIEW ONLINE

VOL. 90

FEBRUARY 2016

The Tragedy of the Neutral Ground: Public Property and Social Norms During Mardi Gras

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New Orleans' Mardi Gras celebration is justifiably famous as a city-wide bacchanal centered on extravagant parades. But beneath the atmosphere of lawlessness, a surprising degree of order prevails that stops the gatherings from descending from revelry into chaos. This brief Essay explores the spoken and unspoken rules of New Orleans' Carnival season, focusing on how both law and social norms combine to manage access to and use of the public property along the city's major parade routes. In particular, this Essay considers two problems that arise out of the outsized demand for public sidewalks and the "neutral ground" between major thoroughfares during the Carnival season: the use of ladders as a way to give young children a better vantage point and the increasingly prevalent tendency to "land grab" large swaths of public property for days at a time. While these objectionable practices contravene local ordinances and have been the target of admonitions from city officials, the primary means of deterring this conduct are informal sanctions such as refusing to throw beads at those on dangerously placed ladders or simply walking through someone's excessively large claimed space. The success of these formal and informal attempts at deterrence remains questionable, though, perhaps due to lack of city enforcement resources and the distinctive challenges of enforcing social norms in the Carnival setting. This Essay concludes by reflecting on the promise of a sharing ethic as a superior conceptual alternative to traditional ownership notions when approaching the use of public property during the Mardi Gras season.

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I. EVEN MARDI GRAS HAS RULES

Part of what makes Carnival celebrations appealing lies in their courting of revelry that borders on chaos, in providing a space where people can be free of their identities and other social strictures.¹ Yet, while they may facilitate a sense of lawlessness, Carnival celebrations—or at least New Orleans’ iconic Mardi Gras season—require considerable regulation to function. The New Orleans Code of Ordinances is shot through with provisions specifically governing Mardi Gras: what routes parades can travel (it depends on the parade, but almost never through the French Quarter), what revelry runs afoul of the law (no “smoke bombs,” “stink bombs,” or “snap caps,” and do not even think about throwing anything at a float), and even where and how public toilets may be placed (not on public property).² New Orleans’ unofficial Mardi Gras motto may be “*laissez les bon temps roulez*,” but the City Council’s motto appears to be “clearer rules promote fair and effective enforcement and thereby promote public safety.”³

As legal scholars have demonstrated for decades, though, positive law does not tell the whole story. Law may provide a framework for organizing expectations as well as an expression of the state’s mores, but our conduct is encouraged and deterred as much by unwritten, informal behavioral expectations and understandings—social norms—as it is by codified regulations and judicial decisions.⁴ Mardi Gras is no exception. New Orleans’ local government has created a formal legal structure for acceptable Carnival conduct, but much of what stops Mardi Gras from descending into chaos is a system of social norms that prescribes rules for decent conduct even in the midst of bacchanalian revelry. This brief Essay focuses on one aspect of Mardi Gras social norms: those that relate to the temporary private use of public property. It catalogues both formal law and social norms governing the allocation of public space during the week leading up to

1. Carnival has long provided a place for the rejection of traditional mores, leading scholars to extol its democratizing tendency to bring people together from all different walks of life. *See, e.g.*, MIKHAIL BAKHTIN, RABELAIS AND HIS WORLD 10 (Helene Iswolsky trans., Ind. Univ. Press 1984) (1968) (“[A]ll were considered equal during carnival. Here, in the town square, a special form of free and familiar contact reigned among people who were usually divided by the barriers of caste, property, profession, and age.”).

2. *See* NEW ORLEANS, LA., CODE OF ORDINANCES §§ 34-29, -33 (2015).

3. New Orleans, La., Ordinance 25,661 (Jan. 9. 2014).

4. Classic accounts include ROBERT ELLICKSON, ORDER WITHOUT LAW: HOW NEIGHBORS SETTLE DISPUTES (1991), and Lisa Bernstein, *Opting Out of the Legal System: Extralegal Contractual Relations in the Diamond Industry*, 21 J. LEGAL STUD. 115 (1992).

Fat Tuesday, in particular, setting up ladders for kids and claiming large areas of the “neutral ground” for private use. It also shows how informal practices interact—and may lie in tension—with both formal rules and public opinion. The Essay then posits some conjectures for resolving this tension and reflects on the significance of this brief case study for the study of law and norms more generally.

II. LAW, NORMS, AND PUBLIC PROPERTY DURING MARDI GRAS

Mardi Gras’ property problem is familiar to anyone who has been part of a massive throng attending any public event. The event’s major parades travel only down several predetermined routes, most notably along St. Charles Avenue to Canal Street, before reaching their terminus in the Warehouse District. The ideal viewing spot is in the front row of the crowd lining the sidewalk, which affords both the best view as the parades pass by as well as the highest odds of catching one of the coveted tchotchkies tossed into the crowd from the floats.⁵ Yet while much of the parade route travels along wide thoroughfares separated by a central median (known in local parlance as the “neutral ground”), these streets still offer far fewer prime parade-viewing spots than revelers seek. Much of the public property along parade routes may be formally dedicated to all for general public use,⁶ but at the height of Mardi Gras parade season, it is subject to the rivalrous occupancy demands of thousands of private citizens.

Getting the best spots along Mardi Gras parade routes thus represents one iteration of property’s first possession problem: When does a resource that is not privately owned, and is available to anyone, become exclusively owned—or at least temporarily controlled—by some private person? One solution, of course, is simply to let people fight it out. The best spots could simply go to those who could acquire them most effectively, whether by force or fraud. Given the raggedness of social order in Carnival settings (not to mention the degree of inebriety among the revelers), one could imagine people taking a Lord-of-the-Flies approach to getting the best vantage points.

5. People riding on floats have traditionally thrown beads into the crowd, but in recent decades, krewes have become increasingly creative with their throws. The Krewe of Muses throws bedazzled women’s shoes, the Zulu Social Aid and Pleasure Club is known for its hand-decorated coconuts, and the Krewe of Tucks’ signature throws are toilet paper and other bathroom-themed novelties. See Alan Farnham, *Best Mardi Gras Throwables This Year*, ABC NEWS (Feb. 27, 2014), <http://abcnews.go.com/Business/best-mardi-gras-throwables-trinkets-sourvenirs/story?id=22685190>.

6. There is much private property along the routes as well, which owners often use to invite friends over or make a profit by renting out viewing space.

But despite the pressure towards chaos, a surprising degree of order governs the allocation of public space during the Carnival season. This is not because the New Orleans City Council has passed applicable ordinances, but rather thanks to a norm that is modeled on the essential allocative principle of “first in time, first in right” (FTFR).

When law needs to allocate first possession, it typically uses FTFR to resolve ownership,⁷ as the signal case of *Pierson v. Post*⁸ and the familiar example of the Oklahoma Land Rush⁹ each illustrate. This approach encourages races among those who desire a resource, allocating exclusive rights in it to those who clearly lay claim to it prior to all others. Social norms, too, tend to incorporate this principle, notably in the case of queues. The widely understood and generally respected norm when many people are waiting for some service is that they form a physical waiting line, or queue.¹⁰ The service is then allocated to those who are in, and have remained in, line, starting with the first who began waiting.¹¹ This norm dominates a vast range of waiting situations, from rides at Disneyland to seats for oral arguments at the United States Supreme Court.¹²

Thus when it comes to staking out the best spot along St. Charles Avenue or other streets to watch the Mardi Gras krewes pass by, the unwritten, but widely respected, rule is intuitive: The earlier you arrive, the better spot you get.¹³ Late arrivals tend to accept the superior placement of those who came before them, even if that means

7. For a good overview of law’s use of FTFR, see Ronen Perry & Tal Z. Zarsky, *Queues in Law*, 99 IOWA L. REV. 1595 (2014).

8. See 3 Cai. 175 (N.Y. Sup. Ct. 1805) (allocating ownership of a fox to the first hunter to “deprive[] him of his natural liberty”); *see also* Ghen v. Rich, 8 F. 159 (D. Mass. 1881) (awarding ownership of a whale to the first whaler to harpoon it).

9. See William Willard Howard, *The Rush to Oklahoma*, 33 HARPER’S WKLY. 391 (1889) (discussing the allocation of real property in the Oklahoma Territory to the first settlers to stake claims to it and describing the associated races to make those claims).

10. See David Fagundes, *The Social Norms of Waiting in Line*, 41 LAW & SOC. INQUIRY (forthcoming 2016).

11. *Id.*

12. It also prevails in queues for arguably the best king cake in the greater New Orleans area, from Manny Randazzo in Metairie. Lines for king cake at this take-out bakery can be as long as 460 people and require a wait of several hours. See Judy Walker, *King Cake Tasting Team Visits Manny Randazzo*, NOLA.COM, http://www.nola.com/mardi_gras/index.ssf?/2012/01/two_more_king_cake_king_tastin.html (last updated Jan. 26, 2012, 12:25 PM). Locals report that those in line wait respectfully, with no cutting or cheating.

13. Not everyone agrees with this practice, at least in its more extreme variations, especially as spectators have begun to arrive days before parades to stake out their preferred spots. See *infra* Part III.B (describing the practice of, and disagreement surrounding, staking out sections of the neutral ground along parade routes with various objects and household furniture).

accepting a worse view or lower odds of catching a coveted throw. Of course, just as abandoning one's place in line without exception or a request for accommodation means you have lost it, by giving up your spot in the front row along the main New Orleans parade routes, you risk forfeiting your spot. If you want to keep your prime parade real estate, you have to earn it by continually staking your claim. Asking a friend or bystander to save your spot while you head off to the bathroom or grab another beverage may allow you to return, but it is a risky practice that will entail an arduous and possibly unsuccessful slog to regain your abandoned territory.

Virtually all line-waiting norms have exceptions, of course. In emergency-room settings, it is customary to allow those with serious medical conditions to see a doctor before those with less pressing concerns. Several such exceptions to FTFR arise along Mardi Gras parade routes. First, people are allowed to pass through the crowd if they are doing so exclusively for the purpose of crossing to the opposite side of the street. This is a variation on the necessity exception in other FTFR settings. Street crossing during the height of the parade season would be nearly impossible otherwise, and this temporary kind of cutting through does not usurp the view or placement of those who have claimed prime streetside real estate. Second, children may be exempted from the FTFR norms in a pair of linked ways. Families with small children may be allowed to move to the front of the crowd regardless of when they arrived, again for the necessity-inspired reason that doing so may be the only way to secure a decent view of the parade for their young ones. Relatedly, standing in front of children to block their view is strongly discouraged, so much so that the rare violators of this norm are often threatened with informal sanctions (including, for instance, a punch in the face)—and quickly capitulate.

III. LADDER CONTROL AND LAND GRABS

A. *The Big Easy's Ladder Control Problem*

A pair of wrinkles complicates the use of FTFR to organize priority along New Orleans parade routes. First, many locals bring truly elaborate setups to the parade, including tents, coolers, chairs, and most distinctively, ladders. The ladders represent a distinctly local phenomenon, featuring vibrant color schemes, wheels for ease of

transport, and seats at the top for children to sit in.¹⁴ These allow families to park their kids in a spot that affords little ones a better view and provides security for them above the frenetic crowd. It may also conflict with the organizing principle of FTFR, because ladders allow those—or at least those kids—who show up later to still get a prime view. Consistently with the relaxed and generous spirit of Mardi Gras, though, few object to the idea of children getting a better view, even if they did not show up the earliest.

Ladders are not, though, free of controversy. In an online discussion, one resident fumed: “Outlaw the ladders. They are an absolute nuisance. It is impossible to cross to the other side of the street. Scaling a barricade is easier. . . . And, they keep the ladders on the neutral ground overnight . . . to save the 40 sq ft area the ladders take up.”¹⁵ Other comments about ladders were similarly scathing. Another local concurred, “I’m all for the dangerous—not to mention inconsiderate and obnoxious—practice being outlawed.”¹⁶ Still another facetiously stated that he “want[ed] to go down the whole row [of ladders] with a chainsaw.”¹⁷

Ladders have become a fixture of New Orleans Mardi Gras parades, sometimes even representing a site of artistic expression.¹⁸ Like all customs, though, the toleration of ladders has its limits. First, spectators nearly uniformly deride the rare, but strongly disfavored use of ladders by adults, rather than children, to get better vantage points.¹⁹ Second, ladders that restrict the public’s ability to freely walk around

14. Predictably, the profusion of ladders along parade routes has resulted in a cottage industry of Mardi Gras ladder production and sales. See, e.g., PARADE SEAT, <http://paradeseat.com/> (last visited Feb. 1, 2016) (offering specially designed Mardi Gras ladders for \$129.95).

15. bardroth, Comment to *Parade-Goer Found Ladders Less of an Obstruction. What Do You Think?*, NOLA.COM (Feb. 13, 2013), http://www.nola.com/opinions/index.ssf/2013/02/parade-goer_found_ladders_less.html.

16. Hollie Garrison, Comment to Charles Maldonado, *Ladder Control Problem*, GAMBIT (Jan. 22, 2013, 1:50 PM), <http://www.bestofneworleans.com/gambit/ladder-control-problem/Content?oid=2134641>.

17. Steve Hatley, Comment to Charles Maldonado, *Ladder Control Problem*, GAMBIT (Jan. 22, 2013, 10:47 AM), <http://www.bestofneworleans.com/gambit/ladder-control-problem/Content?oid=2134641>.

18. For an illustrated reflection on this tradition, see TONY GIORDANO, THE LADDERS OF MARDI GRAS (2012). As this tradition illustrates, Carnival is actually reasonably kid-friendly outside the French Quarter, despite its reputation as an unbridled Dionysian romp.

19. See, e.g., Sister13, Comment to *Parade-Goer Found Ladders Less of an Obstruction. What Do You Think?*, NOLA.COM (Feb. 14, 2013), http://www.nola.com/opinions/index.ssf/2013/02/parade-goer_found_ladders_less.html (“I think it’s pretty ridiculous to see men and women standing on ladders doing insane olympics to steal throws from kids on the ground. It’s shameful.”).

the neutral ground—especially when they are chained together—tend to meet with strong objections.²⁰ Finally, observers disfavor this practice to the extent that it is done in an unsafe manner,²¹ especially when ladders are set up too close to the street.

In recent years, however, both law and social norms have emerged to counter at least some of these practices. Local ordinances restricting ladder use in the interest of safety date to 1982, when the City Council passed a law requiring ladders to be set back at least three feet from the street, in an attempt to avoid dangerous conflicts between spectators and floats. Then in 2014, the City Council passed a more comprehensive series of laws, in response to an increasing groundswell of concern over objectionable ladder usage.²² These included a ladder setback requirement of six feet and a prohibition on the practice of joining ladders together.²³ Early reports suggest that these laws were effective at reigning in the abuse of ladders. New Orleans Police Superintendent Ronal Serpas observed that “there has been little to no actual enforcement of the [ladder setback rule] because there has been so much voluntary compliance.”²⁴ Many residents disagreed, however, noting that ladder usage still violated the ordinances more often than not.²⁵ There is also evidence of informal sanctions against ladder abuse. Riders on floats sometimes refuse to throw beads or other goodies to adults on ladders or to revelers on ladders that are located illegally or unsafely.²⁶

20. See, e.g., bardroth, *supra* note 15.

21. See, e.g., Garrison, *supra* note 16 (relating a story in which a child fell from a ladder and barely escaped serious injury and concluding that “I’m all for the dangerous . . . practice being outlawed”).

22. See New Orleans, La., Ordinance 25,661 (Jan. 9, 2014).

23. See NEW ORLEANS, LA., CODE OF ORDINANCES § 34-33 (2015).

24. Richard A. Webster, *Mardi Gras Parade Rules Get First Test Run, Positive Reviews, as Super Krewes Lie Ahead*, NOLA.COM, http://www.nola.com/politics/index.ssf/2014/02/mardi_gras_parade_rules_get_fi.html (last updated Feb. 25, 2014).

25. See, e.g., LSUFAN2005, Comment to Richard A. Webster, *Mardi Gras Parade Rules Get First Test Run, Positive Reviews, as Super Krewes Lie Ahead*, NOLA.COM (Feb. 25, 2014), http://www.nola.com/politics/index.ssf/2014/02/mardi_gras_parade_rules_get_fi.html (“If he is not seeing any ladders breaking the rule, he is not looking close enough. Some spots on the routes had all the ladders back. Other spots it was like the rule didn’t exist.”).

26. See, e.g., EasyDog, Comment to *Ladders on Mardi Gras Parade Routes—Opinions, Please . . .*, GAMBIT (Jan. 22, 2013, 10:13 AM), <http://www.bestofneworleans.com/gambit/ladders-on-mardi-gras-parade-routes-opinions-please/Poll?poll=2134565> (“When I ride, I refuse to throw to ladders that are set up right by the street.”).

B. *The Great Mardi Gras Land Grab*

Anyone watching a parade along any local thoroughfare has temporarily made an exclusive claim to public land. Yet in recent years, the amount and manner of claiming prime viewing spots along New Orleans' major parade routes has gone well past standing in a spot at an early hour. For example, revelers may set up tents and picnic equipment on the neutral ground. Recent years have seen this practice proliferate, with some people roping off large swaths of public land with police tape or spray paint for their exclusive use. Others have begun to bring in heavy items of furniture to reserve more space and to prevent it from being moved. In so doing, people seek to carve out a greater exclusive claim to public property—in terms of both time and space—than they could simply by being there in person. Some people seek to “land grab” for several days at a time,²⁷ leaving their heavier belongings (or sometimes, chained-together ladders) on the neutral ground. While some groups may leave one member with their belongings at all times to make sure they are not taken, some locals report that the belongings left to preserve these claims tend to be left undisturbed even when they are not monitored.

The practice of using markers to stake one's claim to public property aligns with other systems for first possession of valuable public or previously unowned territory. Miners during the California Gold Rush could work a claim as long as they were actively mining during the day and left some indication of their continued interest in the area—usually, leaving their mining equipment—in the location when they were physically absent.²⁸ And numerous legal commentators have explored the practice of “snow digs,” whereby residents in Chicago will place a chair or other marker to indicate their continued possession of parking spots along public streets that they have worked to clear of snow.²⁹

Whether it happens in snowy Chicago or in festive New Orleans, this kind of claim staking has deep roots and gives a clear signal that

27. While Mardi Gras itself is a single day, Carnival season consists of multiple weeks' worth of parades leading up to Fat Tuesday itself, with most of the major krewes rolling on the weekend or even the week prior to Mardi Gras, before Rex and Zulu roll on Mardi Gras itself.

28. See Andrea McDowell, *Real Property, Spontaneous Order, and Norms in the Gold Mines*, 29 LAW & SOC. INQUIRY 771, 782 (2004).

29. See Richard A. Epstein, *The Allocation of the Commons: Parking and Stopping on the Commons* (Univ. of Chi. Law Sch. Coase-Sandor Inst. for Law & Econ., Working Paper No. 134, 2001), http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1481&context=law_and_economics.

someone is expressing their temporary exclusive possession of public space. Yet this practice has its downsides, especially in the context of Mardi Gras parade viewing. New Orleanians have complained that the practice of reserving space on the neutral ground with ladders or tent frames encourages people to take far more space than they need, crowding others out in a classic tragedy of the commons.³⁰ As one critic of the “great Mardi Gras Land Grab” lamented: “There's simply not enough room on the neutral ground for parties of 10 people to have a 30x20 space all to themselves. I don't know where people got the presumptuous idea that simply showing up early entitled them to a private party on the neutral ground.”³¹ Excessive land grabbing can crowd out others’ enjoyment of parades by reducing available space and is especially wasteful to the extent that spectators seek to exclusively control more land than they actually need or use. As one local put it: “Most remarkable is [that] they aren’t even using all these pieces of furniture [placed on the neutral ground]. They’re just a means of blocking out [the rest of us].”³²

Some degree of private claim staking on the neutral ground has long been a tolerated norm during the Mardi Gras season, but as the practice has increased in recent years, law has sought to rein it in. In 2011, public officials targeted land grabbing for particular enforcement. As Mayor Mitch Landrieu colorfully put it, “You now know that if you go out to Orleans Avenue and rope off an acre and you bring your living room, somebody’s gonna move it.”³³ The 2014 reforms that aimed to reduce ladder abuses also sought to address land grabbing. The revised ordinances targeted those who sought to “create a barricade” on public property (language that applies to police tape, ladders, or other devices used to section off areas of the neutral ground for private routes).³⁴ Here, too, the effect of state enforcement on the most egregious land grabs remains disputed. The New Orleans Police Department celebrated the success of these regulations in encouraging people to self-regulate, with Commissioner Serpas praising the result

30. See Garrett Hardin, *The Tragedy of the Commons*, 162 SCIENCE 1243 (1968).

31. Brennan77, Comment to Kevin Allman, *Ladder Infection*, GAMBIT (Mar. 16, 2011, 9:09 AM), <http://www.bestofneworleans.com/blogofneworleans/archives/2011/03/15/ladder-infection>.

32. uptownruler, Comment to Kevin Allman, *Ladder Infection*, GAMBIT (Mar. 18, 2011, 7:08 PM), <http://www.bestofneworleans.com/blogofneworleans/archives/2011/03/15/ladder-infection>.

33. Kevin Allman, *Ladder Infection*, GAMBIT (Mar. 15, 2011, 6:09 PM), <http://www.bestofneworleans.com/blogofneworleans/archives/2011/03/15/ladder-infection>.

34. NEW ORLEANS, LA., CODE OF ORDINANCES § 34-33 (2015).

of less “‘living room furniture and kitchen furniture’ clogging the neutral grounds.”³⁵ Yet other observers suggest that, despite the good-faith efforts of public officials, land grabbing continues largely unabated.³⁶

While some degree of occupying public space to watch a parade is inevitable, critics of land grabbing at Mardi Gras parades identify two features of the practice that may exceed the bounds of social norms. One frowned-on practice is staking out more land than necessary. Another is becoming territorial about one’s area, seeking to exclude others from using or even crossing over it, sometimes even with angry words or threats. Illustrating both points, one resident related her experience of “walk[ing] down to the parade with my son on the street I grew up on and find[ing] some jack off has roped off 10 times as much space as they need, somehow thinks they own it and wants to fight me over it.”³⁷ She continued: “That is RUDE! Mardi Gras is for everyone, not just those who have the leisure time to homestead!”³⁸ While it remains customary to stake out large claims to the neutral ground, even days before some parades, many New Orleanians lament that this kind of self-interested behavior is inconsistent with the inclusive, free-spirited nature of Mardi Gras. As one commenter put it, “I’m at a loss as to what these land grabbers are thinking. They’re utterly stunning in their selfishness.”³⁹ And one resident framed the issue in public/private terms: “Did you PAY for the neutral ground or the sidewalk? No. Don’t rope it off.”⁴⁰

IV. NORMS AGAINST LAW

This brief examination of customary public land use practices during the Carnival season suggests several broader points about the

35. Webster, *supra* note 24.

36. One reporter found that in 2013, after Commissioner Serpas specifically implored Krewe of Endymion attendees to not “bring your kitchen, your living room, your bedroom set[,] and your next door neighbor’s to the . . . neutral ground,” that very area was marked off with spray paint and garden stakes days before Endymion rolled. Charles Maldonado, *Ladder Control Problem*, GAMBIT (Jan. 22, 2013), <http://www.bestofneworleans.com/gambit/ladder-control-problem/Content?oid=2134641>.

37. Southern Atheist, Comment to Charles Maldonado, *Ladder Control Problem*, GAMBIT (Jan. 23, 2013, 1:14 PM), <http://www.bestofneworleans.com/gambit/ladder-control-problem/Content?oid=2134641>.

38. *Id.*

39. uptownruler, *supra* note 32.

40. liprap, Comment to Kevin Allman, *Ladder Infection*, GAMBIT (Mar. 15, 2011, 6:20 PM), <http://www.bestofneworleans.com/blogofneworleans/archives/2011/03/15/ladder-infection>.

study of law and norms. First, the law-and-norms literature usually invokes a binary narrative in which norms work differently than and apart from state-created rules, typically because close-knit groups have different values or preferences than those embodied by general law. But this survey of Mardi Gras property norms reminds us that the story is not always so simple. Here, law grew up along with norms to regulate the use of the neutral ground. And law and social norms coincide, rather than conflict, especially in terms of their disfavoring dangerous or discourteous ladder use and excessive land grabbing.

This point raises a second one: If both law and norms align against discourteous ladder use and excessive land grabbing, why do these practices persist? Space does not permit a full or conclusive exploration of this issue, but a leading conjecture has to be that it is a simple problem of enforcement. Despite its good faith effort and some indications of successful enforcement, the local police have limited resources that they reasonably need to allocate first to address serious public safety concerns, leaving less capacity to address private ordering on the neutral ground. Individuals remain free to counter ladder abuse or land grabbing with private sanctions, and some do report some such attempts, including intentionally walking through roped-off space or refusing to throw beads to those on dangerously placed ladders. Yet citizens have their own wise reasons for stopping short of extreme enforcement measures. Private sanctions inevitably invite conflict with norm violators, which is especially dangerous in a high-crime city like New Orleans and during a time marked by high degrees of inebriety. Moreover, aggressive private enforcement of norm violations, even if effective, would likely undermine the enforcer's enjoyment of the festival, which is supposed to be about carefree fun with fellow revelers, not about haggling with them over infringements of customary rules. For these reasons, property norms during Carnival season will thus likely remain a bit ragged around the edges, as is probably inevitable during a season that is known for its devil-may-care approach to social order and formality.

By the same token, Mardi Gras' spirit of fellowship and acceptance points toward a unifying theme and may help demarcate the line between acceptable and objectionable private uses of neutral grounds. The Carnival atmosphere is a time for breaking down barriers and celebrating with friends and strangers alike. It thus seems at odds with this ethos of openness to use public property in a way that is harmful to or exclusive of others. As many commentators on this

issue have observed, “Mardi Gras is for everyone.”⁴¹ Norms permit the reasonable use of ladders or occupation of public space, but the line is crossed when spectators assert the same kind of exclusive rights over their space that a private owner might with respect to their real property. A better solution to ladder control problems or land grabbing may thus be simply to encourage sharing practices, rather than stop objectionable practices outright. If spectators understood that sectioning off a zone of public property did not entitle them to exclusive use of it (which, of course, it does not as a matter of law), they might react with less ire when someone encroaches on or crosses through it. As Carol Rose emphasized, the role of property is not only to create benefits for private owners. Rather, for millennia, property has generated social welfare for the public as well, particularly as a site for collective celebrations like Mardi Gras.⁴² The property norms of Mardi Gras not only seek to ensure civility and order, but assure that New Orleans’ shared grounds bring value to the public to which they are devoted.

41. This sentiment likely explains the uniform resistance exhibited in discussion forums to appropriating public space for exclusive enjoyment. See, e.g., Southern Atheist, *supra* note 38.

42. See, e.g., Carol Rose, *The Comedy of the Commons: Custom, Commerce, and Inherently Public Property*, 53 U. CHI. L. REV. 711, 767-68 (1986) (describing “the customary right claimed by some [British] communities to hold periodic dances, a custom held good over a landowner’s objections,” and opining that “[a]ctivities of this sort may have value precisely because they reinforce the solidarity and fellow-feeling of the whole community”).