

MEDIATE THIS !

THE ATTACK OF THE NEIGHBOR'S KILLER PEPPER TREES

BY STEVEN P. DINKIN

Dear Mediator:

My neighbor's pepper trees have encroached on my property and caused significant damage to my pool and deck. He agreed to remove the trees if I proved they caused the damage, and I did that with multiple arborist reports and a civil engineer's report. He has since put his house up for sale; he's currently in escrow. There is an open claim with his insurance company, which is accepting liability for the damage. But they won't cover tree removal, and without that, the encroachment and damage will continue.

Terrified of the Trees in San Marcos

Dear Terrified:

As the poet Joyce Kilmer famously observed, only God can make a tree. And as you have painfully learned, only a tree can quickly morph from a graceful sapling into a fierce marauder.

Problem trees are a common source of neighborhood disputes because there seem to be as many types of tree damage as there are tree species. Jacarandas rain down sticky purple flowers that corrode car paint. Ginkgo trees shed yellow berries that emit a

stench when crushed underfoot. So-called "privacy trees" like juniper and cypress block scenic outdoor vistas. The brittle wood of weeping willows can turn branches into storm-tossed projectiles. Eucalyptus is prone to fall over and smash anything under it.

But the pepper tree may be the champion destroyer of neighbor relations. It is so notorious that several states include it on official "invasive plant" lists and professional gardeners put it on their "trees you should never plant" rosters.

The insurance company appears to be clinging to the letter of the law by offering to cover the damage thus far but not address the cause that will result in more damage. If you took this case to court, that callous "Hey, not our problem!" argument might test the patience of a judge or a jury.

Such tangled circumstances are why disputing parties enter formal mediation, which is something you need to consider.

This column provides self-help guidance for interpersonal conflicts. Corporations may be people, but their legal heft will dwarf the resources of ordinary individuals. Given the imbalance of power between you and the company, enlisting a professional



GETTY IMAGES

This week's reader seeks advice about a neighbor's encroaching pepper trees as the neighbor's house is now for sale.

mediator could help you level the playing field and negotiate a reasonable settlement.

There is one other party in this tree situation. You haven't met him yet, but you soon will. Establishing a good relationship with him should be your top priority.

The buyer of the house is about to be your next-door neighbor. Getting off on the right foot

with a new neighbor is important in the best of circumstances (which yours is not). So a warm welcome here would be timely and strategic.

He may or may not be aware of the pepper tree challenge. Resist the understandable urge to broach the subject in your first conversation.

It's possible he will inherit the

responsibility of removing the trees. It's also possible the previous owner didn't disclose this liability as required by real estate law. Those scenarios aren't your concern right now.

You two may eventually need to work out a solution to a mutual dilemma. When you reach that point, a mediator would ask you to consider the time-vs.-money conundrum.

The longer those trees stay in the ground, the greater the threat to your property. You have no obligation to pay for the removal. But chipping in part of the cost is probably the most expedient approach.

In conflict resolution, we often break through logjams by asking clients a direct question: How much do you want this problem to go away? If sharing some of the financial burden buys you peace of mind, it seems like money well spent.

Steven P. Dinkin is a professional mediator who has served as president of the San Diego-based National Conflict Resolution Center since 2003. Do you have a conflict that needs a resolution? Share your story with The Mediator via email at mediathis@ncrconline.com or as an online submission by visiting www.ncrconline.com/MediateThis. All submissions will be kept anonymous.

NOTEBOOKS

From Union-Tribune reporting staff

POLITICS: CHARLES T. CLARK

Hunter border visit spurs rival's jab

Last fall Rep. Duncan D. Hunter, R-Alpine, and Democrat Ammar Campa-Najjar engaged in one of the more bitter and bizarre races of the election cycle.

Accusations were thrown around about who could receive national security clearances. Hunter's father held a press conference attacking his son's opponent. And the race drew national attention and was frequently full of surprises.

So maybe it's no surprise that Hunter and Campa-Najjar would again provide one of the more bizarre political stories of the week.

On Wednesday Hunter made a trip to Yuma, along with several congressional members from other states. He visited detention facilities, toured the border, and consistently shared photos and videos on social media of everything from a DEA briefing to a ride in a border patrol helicopter.

One video caught the eye of his political opponent and triggered giggles on social media.

Hunter shared a video of a nighttime ride-along with Border Patrol on Thursday. In it he says he is "15 meters" from Mexico, then walks to what is a waste-high barrier.

"Here is the grand border wall in Yuma, Arizona, and this is what we expect to stop people, transnational terrorists, families, all illegal aliens from crossing the border," he says. "It looks pretty tough to cross. Let's see if I can do it."

Hunter then drapes a leg over the barrier and climbs over.

"Hey, there we go. That's how easy it is to cross the border in Yuma, Arizona."

The video was intended to make a political point, and it gained attention when some observers raised questions about whether Hunter had just crossed into Mexico. Campa-Najjar quickly seized on it in a series of tweets, noting that it would have violated the congressman's pretrial release conditions.

Hunter is awaiting trial in September on federal charges that he and his wife allegedly stole \$250,000 in campaign funds. They have pleaded not guilty.

Thing is, Hunter never actually entered Mexico, and that barrier is not exactly on the border.

As first reported by Union-Tribune reporters Thursday, the barrier Hunter pretended to cross was a vehicle barrier that is still on the U.S. side of the border, according to Border Patrol officers. To reach the real



DENIS POROY AP

Rep. Duncan Hunter visited Yuma and the border on Wednesday.



JOHN GIBBINS U-T

Ammar Campa-Najjar is a Democrat seeking Hunter's House seat.

border and cross into Mexico, Hunter would have needed to cross a much larger barrier known as the Colorado River.

Nevertheless, the incident quickly started a back-and-forth between Campa-Najjar and Hunter spokesperson Michael Harrison.

Harrison criticized Campa-Najjar's allegation as a desperate attempt to get attention, a "sophomoric gimmick" to swipe at the congressman.

He said every U.S. barrier and infrastructure are built on the U.S. side of the border, not in Mexico or on the border. Campa-Najjar's statements reflect a "complete lack of knowledge of U.S. border policy and issues happening in border regions," Harrison said.

Campa-Najjar responded that his assessment was based on the congressman's words in the video and, at the very least, Hunter was pulling a political stunt and lied. He also quipped that someone needs to "give Hunter a map."

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THE READERS' REPRESENTATIVE: ADRIAN VORE

Biggest border city? It's San Diego

San Diego is the bigger border city, not El Paso, Union-Tribune readers said.

Last week, I posed the question in the readers' rep column, which is the larger "border city"?

The idea for the question came from an email to the U-T from former San Diegan Ryan Sandberg, who lives in Estonia, where he teaches English and filmmaking.

He had read an article from the British daily newspaper The Guardian. The story was about President Donald Trump's threat to close the border. Some information for the story was gathered in El Paso. The first paragraph of the article read: "The Republican mayor of El Paso, the largest American city on the U.S. border with Mexico, has warned Donald Trump that if he goes ahead this week with his threat to close the border it would have a 'detrimental, almost draconian' impact on the entire region."

Sandberg took issue with the Guardian's "the largest American city ..." description, and wrote to the paper. He didn't like the Guardian's response: "El Paso is a city on the border. There is nothing that separates it from the border and it is seamlessly connected via bridges with Juárez on the other side. San Diego has incorporated other towns, including San Ysidro by the border, but it is not a city seamlessly on the border."

The Guardian told him it would not change the article.

Sandberg, who said he grew up on a sailboat in Glorietta Bay and later moved to Coronado Cays, then wrote to the Union-Tribune. In his email to the U-T, he said, "I am horribly offended that the Guardian would not consider San Diego to be a city on the border."

I wrote last week that I leaned toward the Guardian, saying San Diego has border communities, such as San Ysidro, but much of the city is far from the border. Also there's Imperial Beach, National City and Chula Vista that are between most of San Diego and the border. U-T immigration reporter Kate Morrissey disagreed. She said San Diego is simply bigger than El Paso. I asked readers what they thought.

Frequent letter writer Allen Stanko from Alpine said: "I've been in both, El Paso is a border city. San Diego is an almost-border city."

But other readers said the Guardian is wrong.

"San Diego is a place, not just a city," said Carl Nettleton of University City, "and that place (metro area) has a population of 3.3 million with significant economic and cultural ties to Mexico."

"El Paso is a place, too, with a population of 844,818, and with significant economic and cultural ties to Mexico."

"It's the equivalent of saying that San Diego is bigger than the Bay Area because the City of San Diego is bigger than San Francisco or San Jose. We are bigger than both of those, but as a place far smaller than the Bay Area (3.3 million vs. 4.7 million)."

Reader Richard Kiy of Encinitas changed my mind. Kiy said he is the former CEO of the International Community Foundation and the former chair of the U.S.-Mexico Border Philanthropy Partnership. He said he is familiar with El Paso's claim of being the largest U.S. city on the border. "But the reality is that San Diego is simply bigger," he said.

"While I understand and appreciate the Guardian's viewpoint, I take issue with the erroneous conclusion that they reached," Kiy wrote in an email.

Just as San Diego has incorporated communities like San Ysidro, Nestor and Otay Mesa, El Paso has done similar annexations, Kiy said. He attributed much of El Paso's growth to those annexations.

Also, "the City of San Diego's boundary line actually cuts through San Diego Bay connecting Barrio Logan with Nestor and the Tijuana River Valley, so the Guardian's argument that the City of San Diego does not 'seamlessly connect' the border is also not true," Kiy wrote.

And, he points to "the 1983 U.S.-Mexico La Paz Agreement for Environmental Cooperation. (It) states very clearly in Article 4 that the definition of the 'border' is 100km on either side of the line. The La Paz Agreement's definition of the border region has been widely accepted by government agencies on both sides of the border for many years. Given this definition, all of San Diego County is included as part of the border region. San Diego County had a population of 3.3 million in 2017. El Paso County, in turn, had a population of 800,647."

Kiy attached links to documents and maps to support his position.

"Nothing against the City of El Paso or the Guardian newspaper," he wrote, "but based on the referenced facts, one can conclude that the City of San Diego is, without a doubt, the largest city along the U.S. southern border with Mexico."

All right — I now believe San Diego is the "biggest border city."

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FROM THE ARCHIVES

OLD TOWN WAS DEVASTATED BY A FIRE IN 1872

On April 20, 1872, a fire devastated the core of Old Town San Diego. It started in the old courthouse and jail, and swept furiously through the three-story Franklin House, Dan Clark's Saloon and other structures.

Five years before, Alonzo E. Horton had bought most of present-day downtown and begun developing it as a competitor to Old Town. The blaze was a terrible blow to the small village, where the economy already had been threatened by Horton's fast-growing development to the south. The city's business and civic center soon shifted permanently to Horton's New Town.

On June 4, 1872, New San Diego celebrated the completion of a new courthouse on what is now Broadway, at Front Street.

In 1968, roughly six square blocks of Old Town San Diego became a State Historic Park. Restored and reconstructed buildings in Old Town San Diego State Historic Park are now museums, shops, and restaurants that represent the community as it existed before the devastating 1872 fire.

From The San Diego Union, Sunday, April 21, 1872:

DESTRUCTIVE FIRE IN OLD TOWN — THE BUSINESS PORTION OF THE PLACE IN RUINS

About 10 o'clock yesterday morning a dense column of smoke was seen rolling upward in the direction of Old Town. An observation from the cupola of the Horton House indicated that one or more buildings were burning to the left of the flag staff on the Plaza. Proceeding to Old Town, our reporter found the Franklin House (lately occupied by J.S. Mannasse & Co. as a store) and adjacent buildings wrapped in flames. The fire originated in the old Court House building, next door to

the Colorado House, and two doors below the Franklin House, occupied by R. Schiller as a general store; it was caused by a stove pipe, and broke out between the ceiling and roof, spreading with such rapidity that the whole building was ablaze in a few moments.

There being no appliances to fight the fire, the flames speedily communicated with the adjoining buildings, and it was only by extraordinary exertions that any of the contents were saved. Schiller's, Ash-



er's and Wallach's stores, the Franklin House and Dan Clark's saloon were seen in ruins. By constant toil and watching on the part of the citizens, the fire was confined to this quarter. All that saved the Seely House was the tile roof of the house of Mr. Estudillo, which prevented the fire from reaching across the street.

The sufferers by the fire are: Rudolph Schiller, whose stock, valued at about \$3,000, was almost a total loss; D. Wallach, who saved about half out of a stock worth from \$4,000 to \$5,000; M. Ascher, loss about \$1,600; J.S. Mannasse & Co., four buildings and stock of general merchandise, loss in all, \$12,000 to \$15,000; Dan Clark, Bank Exchange Saloon, loss, \$250. Mannasse & Co. saved perhaps one-fourth of their stock in the Franklin House.

There was an insurance of \$4,000 on the stock in the Imperial of London. C.P. Taggart, agent, and of \$3,000 upon the Frank-

lin House, in the Phoenix & Home of Hartford, E.W. Morse, agent. The Hook and Ladder Company started over as soon as the existence of the fire was known here, but the flames had done their work pretty thoroughly before the firemen reached the ground; the members rendered efficient service, however, in removing the goods scattered about the Plaza to places of safety. As our reporter left, he noticed that Dan Clark, with the true spirit of an "old pioneer," was even then at work fitting up a new establishment.

Since writing the foregoing, we have been favored with the following statement of losses by Mr. E.W. Nottage, Fire Marshal:

M. Ascher, stock of merchandise, \$1,600 to \$1,800, no insurance; D. Wallach, stock and building, \$2,500, no insurance; R. Schiller, stock \$2,000; no insurance; J.S. Mannasse & Co., four buildings and stock of general merchandise, \$14,000, insured for \$7,000; Dan Clark, saloon fixtures, stock, &c, \$200, no insurance; Mrs. Solidad, building occupied by Bank Exchange saloon, \$200; other property not above enumerated, about \$300. The Fire Marshal speaks well of the good service done by Mr. James McCoy. Mr. W.W. Stewart and others at the fire. He says that if he had been vested with more power in the direction of affairs he could have saved a good deal of property for the insurance companies that was lost by general handling and neglect in the general excitement and hurry.

HISTORICAL PHOTOS AND ARTICLES FROM THE SAN DIEGO UNION-TRIBUNE ARCHIVES ARE COMPILED BY MERRIE MONTEAGUDO. SEARCH THE U-T HISTORIC ARCHIVES AT NEWSLIBRARY.COM/SITES/SDUB.