

PJ Bremier's Fine Living: How to avoid turning trees into legal tussle

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By Marin Independent
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(Courtesy of Arborsmith Studios) 'Peace tree' is a fruit tree grown by Richard Reames of Arborsmith Studios in Oregon, that Barri Bonapart uses as a symbol in her book 'Understanding Tree Law.'

John Muir may "never have seen a discontented tree" as he once claimed, but in her lengthy career as a professional mediator and attorney specializing in tree and neighbor law, Barri K. Bonapart has seen plenty of discontented tree owners and neighbors.

That's what prompted the Mill Valley resident to write "Understanding Tree Law" (Thomson Reuters, \$80).

Although she says it's written primarily for attorneys, she says she wrote it in an entertaining fashion so that it's accessible and reader-friendly to everyone.

On July 13, she will sign copies at Book Passage.

Bonapart says tree disputes are never really about the tree.

"When neighbors are in a dispute, the tree becomes a lightning rod for other issues," she says. "It could be something like 'you didn't invite me to your daughter's wedding' or 'my marriage is falling apart and my garden is the only place where I truly have control.'"

What does that mean for neighbors?

It's "understanding those psychological underpinnings that can be the key to helping a person let go of any issues, identifying each sides' needs and interests, and coming up with creative solutions," she says.

But, it's not about compromise.

"That suggests giving something up," Bonapart says. "I believe it's more of a transformational



way of problem solving. It could be an opportunity in disguise to create new and even better situations than what each side had before."

Say two people are fighting over trees and a view, she hypothesizes.

"The tree owner likes his trees because they provide privacy and he hangs his outdoor movie screen on their trunks, but the other neighbor wants back his view of the Golden Gate Bridge," she says.

An arborist could suggest trees that could provide as much, or more than, what the tree owner already enjoys, she argues.

And, if the view is that important to the neighbor, Bonapart figures he may even be happy to pay to remove and replace the trees if he can avoid the thousands of dollars in court costs and get a guaranteed result.

How are tree disputes prevented? Start with tree selection and placement, she says.

"Pick a species that has a mature height and spread level lower than the view corridor and whenever necessary, avoid sidewalks, boundary-, sewer- and utility lines."

Hire a qualified tree risk assessor to predict and prevent catastrophic tree failure.

"If you have large specimens on your property, you have a duty to have them carefully inspected and maintained," she says.

Know your local tree rules and your rights. Some municipalities and homeowners associations have tree ordinances. Some trees can be grandfathered in and some trees are exempted.

Be aware that tree disputes in Marin center on view obstruction, root and limb encroachments, and safety concerns and the tree and the trees most likely to be involved are blue gum eucalyptus, redwood, Monterey pine and cypress.

Realize that there is subjectivity in the law. "What is 'unreasonable' obstruction of a view?" she asks.

"There is no absolute right to cut encroaching limbs or roots," she says. Neighbors should make sure they are within their legal rights, check in with the tree owner and hire professionals to protect the tree's health.

"Treat neighbors as you would want to be treated if it were your tree," Bonapart advises. "It's not what you do but how you do it that makes all the difference."

With a new neighbor, she recommends bringing a welcome basket and then approaching the subject a few conversations later. For an established neighbor, ask if there's a way he wants to handle it or suggest working together to figure out a plan.

Whatever you do, she cautions, "don't make the first communication a lawyer letter."

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