

MEDIATE THIS !

THE DOORBELL DILEMMA: A SELLING-A-HOME STALEMATE

BY STEVEN P. DINKIN

The National Conflict Resolution Center handles a wide array of mediation cases involving real estate disputes, both in the commercial and private sectors. We often find that these cases are the result of disagreements over minor aspects of larger deals, preventing sales from moving forward. In this column, we explore how a situation such as this could prevent a home sale from being finalized.

Selling a home can be a drawn-out process that can leave even the most optimistic person wondering if the end will ever be in sight. From the initial listing to the closing, there can be obstacles that resemble land mines concealed along a road. If your experience has been less than ideal, you are not alone. Home sale stress is common. The National Association of Realtors reported that in 2018, only 64 percent of sellers were satisfied with the selling process. When you've finally found a buyer, a disagreement over small

items may be the last thing you would expect to hinder your sale.

When a buyer is looking to purchase a home, the sleek appliances, tasteful light fixtures or added alarm systems will help influence their decision. Conversely, sellers may plan to take their expensive refrigerator, crystal chandelier or closet organizer when they move out.

Most well-written purchase agreements will contain a clause or specific language regarding home improvements or fixtures contained in the sale. What is included in the purchase may become unclear when this language fails to account for specific items, such as a doorbell security camera. Personal property becomes real property when it is affixed to the home in some fashion. There are multiple "tests" that can be conducted by a home inspector to confirm which category an item falls into, and state laws also come into play regarding this distinction.

It is a common reality of negotiation that the small-



GETTY IMAGES

This week's column offers advice about the stress of selling a home.

est of details can stop even the largest of wheels from turning. Using our example, a situation in which a buyer expected a home's doorbell security camera to be included in the purchase — and the seller expected to take it — could stalemate the sale. In this situation, the most obvious solution would be for the seller to discount the sale price by

the value of the doorbell camera.

Like the grandmaster willingly giving up pawns on a chessboard to get to the king, in mediation, we often concede certain elements to get to our ultimate destination. Minor disagreements can blur our vision, leading us to lose sight of the bigger picture. To stay the course, consider agreeing to a buy-

er's terms as a conciliatory gesture so the sale can move forward.

A technique often used in mediation is the process of framing and reframing. Framing is the thought process a person uses to define a situation, which often leads to a plan of action. Reframing is doing this over again in a different way.

When in conflict, we are quick to frame a situation with our viewpoints, unconscious biases and past experiences. When we reframe a situation, we strip away those factors and have the chance to build a bridge instead of a wall. In our example, one could reframe agreeing to the buyer's terms as the cost of doing business.

It is only when we realize that we possess the ability to shape perspectives, including our own, that we are able to see that the solutions to our conflicts may be right in front of us. In the words of American biologist Leroy Hood, "If you focus on the smallest of details, you never get the big picture right."

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 mediatethis@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

OUTDOORS: ERNIE COWAN

Nature discovery: Snakes drink water

I wanted to yell "rattlesnake," but there was no one else to tell.

Sitting alone and enjoying the warm morning sun, I had been startled when I caught the slow movement of a large snake pushing through the dense patch of colorful snapdragons at the edge of my patio.

Rattlesnakes are relatively common here on Mt. Whoville since I am surrounded by native chaparral and that's what I was expecting to appear.

Alert now, I sat motionless waiting to see what this slithery visitor was going to do.

This was not planned, but one of my sit-and-see adventures was unfolding. I will frequently find an interesting place and spend at least an hour quietly observing nature around me. What my visitor did might determine just how long I hung around.

Slowly the snake emerged from the garden, following the round shape of a small clay pot that I have adapted as a fountain. I began to relax when it was clear my rattlesnake was actually a beautiful California kingsnake.

Slowly, about 3 feet of snake slipped out of the dense foliage and curled around the base of the clay pot. With alternating bands of brown and pale yellow, this was a beautiful specimen.

It then did something I had never seen. Slowly the snake began to push up the rounded side of the pot until it was at water level. Lowering its head into the water, it appeared to be drinking.

Do snakes drink?

I had always understood that snakes obtained the water they needed from their food, but this kingsnake clearly appeared to be seeking water.

As I frequently do, I reached out to the bright folks at the San Diego Natural History Museum.

Brad Hollingsworth is the curator of Herpetology at The Nat and when I called, he was in the desert studying flat-tailed horned lizards, but not too busy to answer questions.

He confirmed that snakes do get their water from the rodents they eat, but all snakes will drink if presented with water.

"It's not something you typically see, especially in desert areas. But in the case of coastal areas where it rains more frequently, they will drink from ponds and puddles that form," Hollingsworth said.

He has even observed snakes sitting in



ERNIE COWAN

A California kingsnake drinks from a fountain.

the rain and drinking the beads of water that form on their skin.

Apparently, my little garden fountain is not only a bathing and drinking source for local birds, but now a convenient watering hole for our resident kingsnake. Another good argument for providing water in your backyard nature habitat.

I've always believed that snakes get a bum rap because of one disagreeable species common around here.

While rattlesnake encounters can be unpleasant, or even deadly, people who spend time in nature should learn to identify snakes, so their immediate reaction is not to kill them.

Even rattlesnakes have an important role to play by keeping our rodent population in check. But the kingsnake has the added benefit of keeping our rattlesnake population under control.

Kingsnakes are docile creatures that generally measure 3 to 4 feet in length at maturity.

They can vary in color patterns, but my visitor was sporting the most common pattern with alternating bands of brown and light yellow.

They are immune to rattlesnake venom, which allows the kingsnake to feed on other snakes and lizards, rodents and small mammals, lizard and snake eggs, aquatic animals, birds, eggs and chicks.

After getting his fill, the kingsnake slipped off into the garden. Another sit-and-see adventure completed where I learned that snakes do actually drink.

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THE READERS' REPRESENTATIVE: ADRIAN VORE

Readers tore into story on foraging

The Union-Tribune heard loudly from readers last week about Wednesday's Food section cover story. The article, headlined "Edibles in Nature," featured a chef foraging for plants in the Elfin Forest Recreational Reserve and at the Batiquitos Lagoon in Carlsbad. The plants were to be used in recipes.

The story, by freelance food writer Michael A. Gardiner, mentioned that the chef, William Eick, early in his career "saw there is no better way to reflect your geographical region on a plate than by populating it with foods that grow wild in your area."

The story took readers on a journey with Eick and Gardiner searching for plants. The article's layout included pictures of plants, such as sea asparagus, elderflowers and watercress, with locations of where they can be found.

"Huge problem with Food section edibles story," one reader titled her email. "Really?" read the subject line of another email.

The readers saw three problems with the story: It can be dangerous to consume wild plants; gathering plants can harm the environment; and it's illegal to collect plants from Elfin Forest and the Batiquitos Lagoon, or other reserves.

The story dealt with the safety issue throughout the text and in a sidebar of 10 tips from Eick for beginning foragers. No. 3, for example, "If you aren't 100 percent positive, don't touch it."

It also addressed the environmental angle. No. 4, "Be respectful of nature so the plants can remain sustainable." The story quoted Eick on taking just what one would need. "Never take all of the plant in one location," he said. Take "30 percent at most" so the plant can regrow.

The gaping hole in the article, I believe, as well as the readers who emailed, was the legality of taking plants. Depending on the location, it might not be allowed. That's the case in Elfin Forest and at Batiquitos. The article didn't say anything about that.

Jeff Anderson, the park supervisor for Olivenhain Municipal Water District, which operates Elfin Forest Recreational Reserve, said the reserve is off-limits to foraging.

"Removing, damaging, or destroying any plants without prior authorization is a violation of EFRR's rules and regulations," Anderson wrote in an email to the readers' rep. "The signage at EFRR's trailhead communicates to our visitors that EFRR's natu-

ral resources are protected and collecting is not allowed."

He said the rules play a role in providing "a unique recreational, educational and environmental experience to its visitors."

Fred C. Sandquist, president and board member of the Batiquitos Lagoon Foundation, wrote a letter to the U-T and emailed a response.

"Foraging can be fun, but it should not be done in wetlands, ecological reserves unless specifically authorized, and in state marine protected areas associated with California's Marine Life Protection Act," he said in the email. "Specifically, Batiquitos Lagoon Ecological Reserve and Batiquitos Lagoon State Marine Conservation Area ... do not allow the taking of anything (e.g., plants, wildlife, marine life, and any artifacts including shells) by the public."

The issue of legality slipped by, said the writer, Food section editor and chef.

"I did not realize it was against the rules," Gardiner said. "If I had known I would have gone somewhere else." In the future, "I'm going to ask the question straight up — 'Is this legal?'"

Editor Chris Ross said that when the story idea was pitched and during the editing the legality of foraging in certain areas did not come up. "But it should have," she said, "and should have been one of the rules in the sidebar. We were mostly focused on the safety issues."

From chef Eick: "It was under my understanding that the article was purely for educational purposes. To teach people that are interested in foraging what to do, where to start, how to respect the environment so it is not harmed, and remain sustainable. I would not in any way recommend anyone to harm or destroy plants for personal consumption or gain."

"I now understand there is legal precautions that should be taken, most of which I was unaware of. ... I do not recommend anyone to forage anywhere that is illegal," Eick said.

The story has since been updated online with a correction that foraging is not allowed in Elfin Forest and at Batiquitos. The correction also ran in print on A2 Friday.

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FROM THE ARCHIVES

PROHIBITION CLOSED 55 SALOONS 100 YEARS AGO

One hundred years ago, 55 saloons, one brewery, numerous wholesale houses and several cafes and cabarets in downtown San Diego were closed at midnight as the Wartime Prohibition Act—which banned the sale of alcoholic beverages having an alcohol content of greater than 1.28 percent—took effect in the United States. Prohibition remained in effect until 1933.

From the Evening Tribune, Monday, June 30, 1919:

GREAT RUSH ON TODAY BY WETS TO PROVIDE FOR LONG ARID SPELL

The millennium, of a sort in the minds of many wet folks, falls at midnight tonight. All will then be ended, theoretically at least, but there is abundant prospect of a hangover that will sustain the effect for some additional days. The millennium is going to be a hard thing to swallow, but many believers were promising today to do their best.

The stand-up-to-the-bar drinkers apparently were saving their main capacity for the evening hours. In order to still be standing, if possible, at the midnight hour before falling in weeps, but the home supply advocates were on the rush today and everybody with an express wagon had a lively job. The home supply crowd must finish up by 6 o'clock, due to city ordinance prohibiting the carrying away of wet goods after that hour.

But wait—what is there to prevent ordering today and letting delivery follow some time after July 1. That is a system reported to

be held safe in other cities.

"We have no instructions covering that," admitted Walter Weymouth, agent of the department of justice today.

Such hope as this might cause for dealers who will be left with stocks on hand, however, is dimmed by Weymouth's further declaration that the department will make a record of any such belated deliveries and subsequent instructions may direct him how to deal with the cases—if they are held to be violations. The dealers were not found taking orders for future delivery today, and had not thought of it as a possibility, they said.

Then again, since no enforcement act was passed, the federal government has no prescribed penalties to impose, even if there are arrests for violation of the war time prohibition law.

As far as the city laws are concerned, dealers are licensed to sell up to July 10, but that



isn't giving any great amount of satisfaction in view of the federal law effective at midnight tonight. But as a revenue getter the city will be more affected than the federal government. At the internal revenue office today it was stated the San Diego saloon tax by the government amounted to only \$2000 a year, while the brewery stamps amounted to about \$9000 a month.

Never Dry Before

Dryness will be experienced in San Diego for the first time in its long, long history tomorrow. While other communities have alternated back and forth and elections on the question have been held here, the ancient town remained in the wet column continuously. That was its own will and accord, with the national government overthrows.

Fifty-five saloons, a brewery, numerous wholesale and retail stores, cafes and cabarets will cease dealing in anything more than one-half of one percent kick in it. The day of ending at 6 p.m. was one in which the wet watched the disposal of stocks to find the psychological moment for his investment in home supply. Hundreds, in fact thousands, have made large cuts into the stocks in the past days and weeks, preparing against the day, but a final rush was expected with attendant excitement.

What will happen to the wine grape growers is a side issue, although a vital one to large investments. There is a prevalent assertion that the grapes can be dried and so sold to wine making and drinking countries, the drying not harming the grapes for manufacture of wine. If this development proves out and no legislation is framed to prevent it, the wine growers may save their investments in vineyards. Prices for wine grapes are reported higher this year, with buyers on the job with offers ranging from \$20 to \$70 ton.

Somewhat Prepared

San Diego, of course, is partially prepared for the blow. The many service camps are largely responsible, for their coming brought regulations which worried the personal liberty devotees. The joyous cabaret dancing establishment went by the board and the people have been educated to the soft-drink palace. Lately, some of the eats-drinks-but-no-dance cafes have dropped the drinks in anticipation of tomorrow, and the public has been a little more educated.

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