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21 October 2018

**SENATOR TONI G. ATKINS**  
**SENATE PRESIDENT PRO TEMPORE**  
**39TH DISTRICT**  
**1350 FRONT STREET, SUITE 4061**  
**SAN DIEGO, CA 92101**

RE: AB 1404 COMMENTS AND NEIGHBOR ENCROACHMENT

Dear Senator Atkins,

I received your letter of 18 October 2018 on 10/20/2018, and have posted an online copy here:

<https://she-philosopher.com/SCCcase/comments-on-AB1404.html#Follow-Up-No36>

(*note*: all URLs given here, and below, are case-sensitive, and must be typed directly into your device's browser; links in this document are not active, so you can't copy or click/tap on them and expect to reach your intended destination)

Again, you are evasive, and will *not* answer the simple yes/no question

*will you commit to fixing California's flawed "Good Neighbor Fence Act of 2013" — yes? or no?*

that I have been posing since August 2017.

But worse than this, it appears you have not even taken the time to *actually* read the letters you are responding to, or you wouldn't have written me the following:

*"With this letter, I have included printed copies of the 2013 analysis from the Senate Judiciary Committee, as well as the Assembly Committee on Judiciary which authored the bill. The analysis may help answer lingering questions about the statute."*

For ease of reference, I posted copies of these two documents (along with three others) to my website over three years ago, on 7/30/2015, as attachments to the first Open Letter I

addressed to “The Author(s) of California Assembly Bill 1404 (AB-1404), the ‘Good Neighbor Fence Act of 2013’”: for proof of this, *see* the legislature’s document I have categorized as Item No. 2 of 5:

<https://she-philosopher.com/SCCcase/comments-on-AB1404.html#legislative-analysis-of-AB-1404-No2of5>

and the document I have categorized as Item No. 3 of 5:

<https://she-philosopher.com/SCCcase/comments-on-AB1404.html#legislative-analysis-of-AB-1404-No3of5>

Moreover, I have already quoted at length from *both* of the documents you sent me in my previous correspondence with your office, first in the 7-page letter I addressed to you, dated 8/13/2018:

[https://she-philosopher.com/SCCcase/dtp-to-SenatorAtkins\\_2018-08-13.pdf](https://she-philosopher.com/SCCcase/dtp-to-SenatorAtkins_2018-08-13.pdf)

*note*: includes 3 quotes from Item No. 2 of 5 = p. 3, p. 4, p. 7

*note*: includes 3 quotes from Item No. 3 of 5 = p. 5 (x2), p. 6

and secondly in my e-mail responding to Ryan Trabuco, dated 8/15/2018:

[https://she-philosopher.com/SCCcase/comments-on-AB1404\\_2w28.html](https://she-philosopher.com/SCCcase/comments-on-AB1404_2w28.html)

in which I was quite critical of this documentation, opining:

“Do we really need more legislation enacted, without careful deliberation, by way of executive summary (*see* the legislature’s 5! highly-repetitive, superficial analyses of AB 1404 I copied out for everyone’s convenience here:

<https://she-philosopher.com/SCCcase/comments-on-AB1404.html#legislative-analysis-of-AB-1404>

) which legislators then rubber-stamp without understanding the details (and full implications, because the devil is always in the details! ;-)) of what they’re voting for?”

So, no, these two documents that you enclosed in your letter of 10/18/2018 do *not* “help answer lingering questions about the statute”: in fact, they raise important questions (*e.g.*, concerning the purposeful removal of language relating to enclosure) that no one has been willing or able to answer thus far, including you.

May I suggest that you actually read my past communications with your office?, starting with my 7-page letter to you, dated 8/13/2018, with a copy posted here:

<https://she-philosopher.com/SCCcase/comments-on-AB1404.html#Follow-Up-No28>

and my e-mail to Ryan Trabuco, dated 8/15/2018, with a copy posted here:

<https://she-philosopher.com/SCCase/comments-on-AB1404.html#Follow-Up-No33>

I am a literary historian, with a PhD from UC San Diego, specializing in the 17th century (including the founding of this country, from the first permanent Anglo-American settlement at Jamestown, Virginia, in 1607).

As a scholar, whose every utterance at She-philosopher.com is subject to rigorous peer review, I do not lightly make statements such as:

“... California’s flawed ‘Good Neighbor Fence Act of 2013,’ which repealed and replaced a perfectly good statute enacted in 1872 with a ‘clarified and modernized’ mess.”

(see <<https://she-philosopher.com/studies/California-AB-1404.html#Toni-Atkins-will-not-answer-constituent-question>> for the rest of the quote and back story)

Given these sentiments, I do not consider the fact that “our state’s neighborhood fence statute had not been updated since 1870” a good enough reason to repeal and replace it with the flawed legislation known as AB 1404. Just because something is old — I notice that you date the statute 1870 in your letter, rather than 1872 (since I don’t have access to the archival documentation, I can’t verify the 1872 date, which I got from secondary sources, so I may well be the one who is incorrect here) — doesn’t mean it’s irrelevant or no longer applicable. In keeping with this kind of spurious logic, we should also repeal and replace the much older constitution of the United States, because it was ratified in 1788 during the Age of Enlightenment, which obviously no longer describes the postmodern world we inhabit in 2018.

Similarly, the fact that AB 1404 was designated “noncontroversial” doesn’t justify its enactment or continued support. I would simply argue that the 72 Assemblymembers and 39 Senators who voted for AB 1404 — plus Governor Jerry Brown, who signed it — were well-intentioned, but ill-advised, and let it go at that. I do remain curious about, but am not overly concerned with, the special interests who pushed to have Cal. Civ. Code § 841 repealed and replaced in 2013. I’m assuming that their agenda ultimately drove the reform effort, resulting in the flawed “modernized” law we ended up with.

But what matters most now is that the formerly “noncontroversial” AB 1404 has become highly controversial. You have constituents who are hopping mad about its deleterious effects — undermining Californians’ founding rights regarding person & property — and we’re looking to our representatives in Sacramento to fix the quality-of-life problems you have created for us. Indeed, this has become my No. 1 issue, and will guide how I vote from now on, turning me into the kind of single-minded, single-issue voter I have long deplored!

I am also surprised that you would try to justify the misguided reforms enacted *via* AB 1404 by noting that:

“Other states including Iowa, Louisiana, Minnesota, Nebraska, and New Hampshire have updated their statutes and adopted similar neighborhood fencing laws.”

Since when did California — usually so keen to present itself as a *leader* on the world stage — become a follower of other states in our troubled union, looking to Nebraska and Louisiana as our models for “modern” legislative reform?

I expect I am not the only Californian who will be dismayed to learn from the new President *pro Tempore* that our great state — with its independent streak, a diverse population of 40 million, an entrepreneurial spirit, and the 5th largest economy in the world — is no longer as innovative as Iowa, whose laws we now emulate.

You have no more ambition for us than this?

Sincerely,

Deborah Taylor-Pearce

Disgruntled resident & voter

California State Senate District 39 & California State Assembly District 77