

# THE DISPUTED TREES

## Historic eucalyptus trees subject of critical issue in Arcadia

***Publisher's note:** They are 27 red river gum eucalyptus trees. They are the unmistakable gateway to Arcadia. At 935-feet long, they are the largest stand of eucalyptus in the City of Phoenix. Planted around 1940, they are integral to Arcadia's history, and are included in the Burgess Lateral Historic District, which is on the National Register of Historic Places.*

*And right now, 16 of them are a mess, and a danger to people who walk, drive and ride their bikes past them. Hopefully this issue can be resolved before something tragic happens. Find out how you can help at the end of Nick's story.*

— Greg Bruns, Publisher

By Nick Smith

So, what exactly is the deal with those trees? They are familiar to everyone in the area, a natural landmark that serves as a kind of gateway into the Arcadia neighborhood. Take 48<sup>th</sup> Street north across Indian School Road and follow the curve, over the canal, past the shopping center on the left side. They line the right side of Arcadia Drive, 27 red river gum eucalyptus trees, over 75 years old, each nearly a hundred feet tall each, sitting on a dirt path, looking over a small ditch that runs just under them.

Despite being an iconic piece of the Arcadia neighborhood, 16 of the trees have become noticeably unkempt. Massive limbs have broken off, being held above the ground by still intact branches, while piles of debris and leaves cover the ground underneath. Palm branches fill the ditch below, revealing that people are dumping their own yard waste in the area. The question comes to mind for anyone who walks past: shouldn't someone be taking care of these trees?



Once focused on bringing a bridge to Arcadia, Dan Colton now has his sights on the neighborhood's iconic eucalyptus trees.

What very few people seem to know is that these 16 trees are at the center of a complex dispute over who exactly is responsible for their wellbeing. The issue is multi-layered, involving several different entities, bureaucratic red tape, historical land, and may not even have a solution.

"This is truly one of the strangest cases you'll ever hear of," said Sam Stone, Chief of Staff for Phoenix City Councilman Sal DiCiccio.

The trees sit on historically designated land, with eleven of the trees being maintained by the homeowner's association of Arcadia Estates (AEHOA), the subdivision of houses that sit just over the fence to the east of the trees. Those trees are part of the Arcadia Estates property. The other 16 trees are not, and they're the ones that are at the center of the controversy.

What the designation inadvertently did was place these 16 disputed trees in a kind of no man's land, with multiple entities responsible for different sections of the area and no one claiming responsibility for the maintenance of the trees. At different times, suggestions for who should be responsible have been aimed at SRP (Salt River Project), Maricopa County Flood District, the City of Phoenix, the AEHOA and even the United States government, since the land is a federal historic designation.

The unwritten rule of upkeep is enough to make one's head spin. If a limb from one of the trees and lands to the west of the ditch on Arcadia Drive, the City of Phoenix is supposed to clean it up. If it falls directly into the ditch, it becomes SRP's job. If the limb bounces to the east of the ditch on the sidewalk, the AEHOA has been cleaning up. Unless of course, the limbs fall over the fences themselves on the east side, whereby it becomes the problem of the owner of the resident of the yard the branch fell into.

If there's anyone who can understand the persistence it takes to find a solution for an issue like this, it's Dan Colton. When he became the president of the AEHOA in 1998, he became determined to construct a pedestrian bridge that would go across the canal on Arcadia Drive, after he saw a family with young children nearly hit by a car as they crossed the paved bridge into Arcadia. It took 13 long years of stopping and starting before the project was completed. Now, he's set his sights on trying to find a solution to the disputed trees.

For Colton, finding an answer to this conundrum isn't just something to pass the time. He views it as a public safety issue, and dreads the moment when one of the large, unkept limbs breaks off and falls down on a passing car or pedestrian. It almost happened in August, when a massive branch crashed a large medal fence that surrounds Arcadia Estates park area. The branch stayed on top of the fence for weeks.

"I left it out there. I'm trying to make a point here," said Colton. "Until there's a catastrophic event, the City isn't going to say anything. But once that happens, you can't bring that life back."

In Colton's mind, the primary responsibility for the standoff lies with the City of Phoenix. By designating the

area as historical, he claims that the City has limited who can take part in helping with the trees. SRP has told Colton that they aren't allowed to touch the trees because of the historic designation. Colton also believes the City has unfairly placed the burden of responsibility for upkeep of the trees on the AEHOA. The disputed trees are not on property owned by Arcadia Estates, and therefore, the residents don't feel like it is fair for their HOA to have to maintain them. Colton estimates that it costs \$45,000 to trim the trees, meaning each Arcadia Estates homeowner would be paying around \$100 extra a month, in perpetuity, for maintaining trees that aren't on their property.

The City is aware of the issue with the trees, but believe that they are under no obligation to take care of them. For the City, it comes down to how close the trees sit to the area that AEHOA is responsible for.

"Phoenix City Code Section 31-10 states that 'property owners are responsible for maintenance within 25 feet of the abutting property line,'" said Stone. "Based on this, City of Phoenix professional staff have been adamant that all of the trees are the responsibility of the HOA."

This argument is a source of frustration to Colton. He claims that the City never informed AEHOA that they were going to be held responsible for the trees and that they have overstepped their boundaries.

"We have no problem maintaining the ones that are on our property," said Colton. "But to ask us to maintain something that isn't our real estate is injustice. They did this without our participation and it could happen to anyone."

Even trying to find a temporary solution seems to be bogged down. The AEHOA reluctantly went to try and pull a permit to trim the trees recently, they were told that a signature was needed from the property owner before that would happen. The problem with that, of course, was AEHOA are not listed as the property owners.

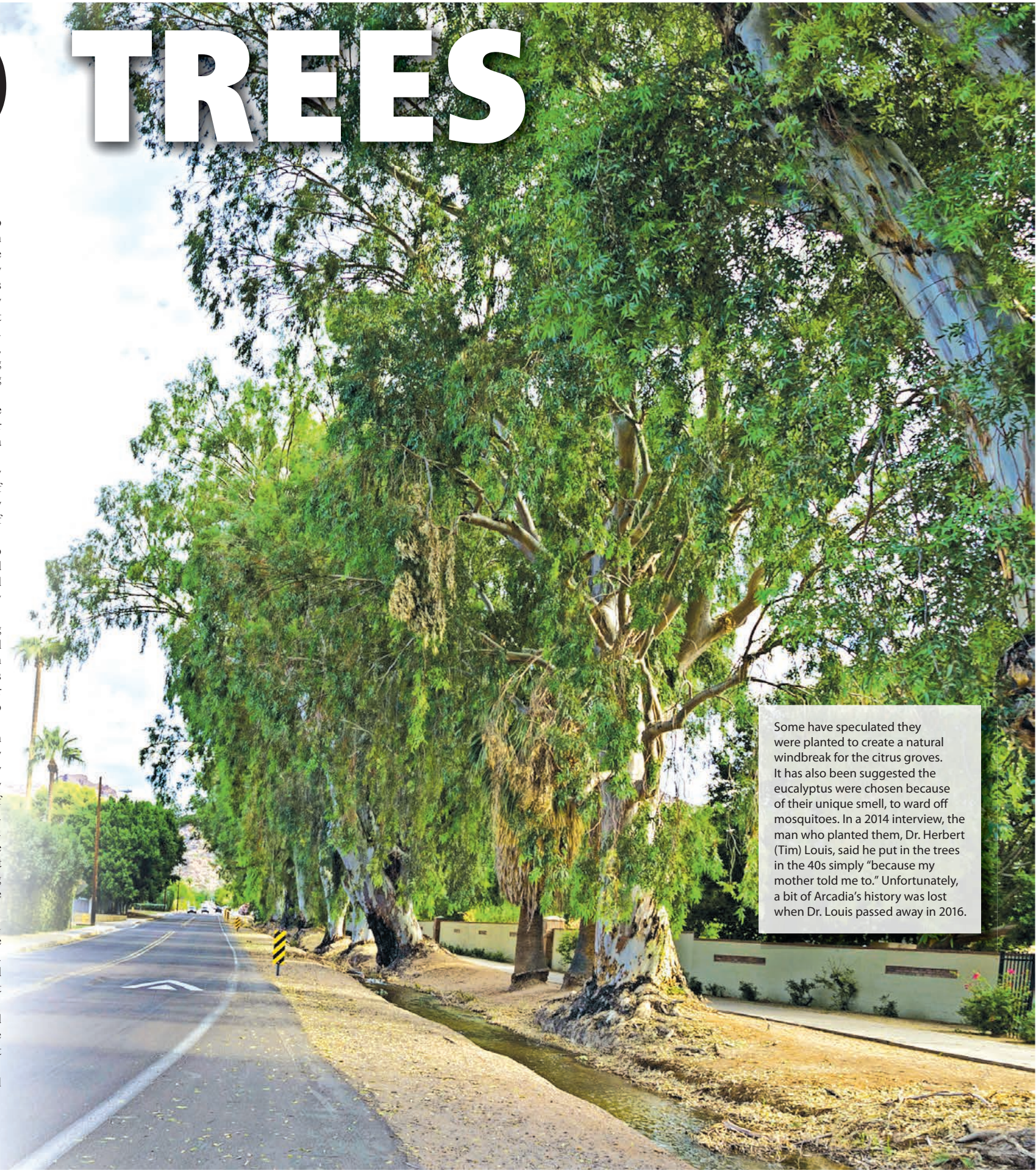
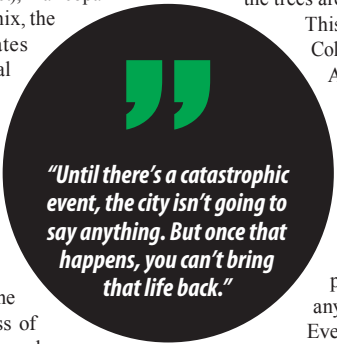
"That instance isn't something I was aware of," said Stone. "This is a situation where we would love to see everyone come together with a solution. The city is adamant that it isn't their responsibility, but as far as having trouble getting a permit, that needs to be explored and help to be taken care of as quickly as possible, if they're having issues."

How a solution is brought about from this isn't clear. Some hope for an intergovernmental agreement, like the one that eventually brought Colton's bridge to the canal. For his part, Colton believes there's an answer out there and is determined to keep working until he finds a permanent solution

"(Former Phoenix City Councilman) Greg Stanton stood in my backyard almost 20 years ago, looking up at these trees," said Colton. "I remember him telling me, 'we've got to take care of these trees, they're too important not to.'"

Colton, the Arcadia neighborhood and the trees are all still waiting.

*If you want to help, email Dan Colton at [dcolton@coltoncommercial.com](mailto:dcolton@coltoncommercial.com)*



Some have speculated they were planted to create a natural windbreak for the citrus groves. It has also been suggested the eucalyptus were chosen because of their unique smell, to ward off mosquitoes. In a 2014 interview, the man who planted them, Dr. Herbert (Tim) Louis, said he put in the trees in the 40s simply "because my mother told me to." Unfortunately, a bit of Arcadia's history was lost when Dr. Louis passed away in 2016.