

DOCKET # FBT-CV20-6102362-S : **SUPERIOR COURT**
Daniel Lent : **JUDICIAL DISTRICT OF**
Plaintiff : **FAIRFIELD**
v. : **AT BRIDGEPORT**
Amerakon Partners, LLC, **Defendant** : **JANUARY 28, 2021**

AMENDED COMPLAINT

Pursuant to General Statutes § 52-128 and § 10-59 of the Connecticut Practice Book, the plaintiff hereby files this amended complaint as of right within thirty days of the return date. This pleading amends the original complaint by designating the sole count in the original complaint “Count I” and inserting two new counts, “Count II” and “Count III” and amending the prayer for relief.

COUNT I

1. The plaintiff, Daniel Lent, owns the property at 71 Banks Road, Easton, Connecticut 06612 and resides there as well.
2. The defendant, Amerakon Partners LLC, owns property consisting of more or less 55.7 acres, with no assigned street number on Banks Road, Easton, Connecticut, identified by the Easton Tax Assessor’s Office as Map block lot 3777B 3776A 11 (“the site”), recorded by the Easton Town Clerk in the land records at Volume/Page: 0525/0248.

3. The site includes inland wetlands, a lake, Morehouse Brook and other named and unnamed watercourses and the upland review areas associated with those wetlands and watercourses.
4. Regulated activities which are subject to the state Inland Wetlands and Watercourses Act are subject to regulation by the Easton Conservation Commission acting as the Inland Wetlands Agency (“Commission”).
5. The property which the plaintiff owns, described in ¶ 1 above, abuts, in part, the site.
6. At some point after the summer of 2014 and prior to the end of 2016, the defendant caused or authorized the construction of a recreational road at the site, approximately one thousand feet long and eighteen feet wide, on the west side of the lake through and in the vicinity of the inland wetlands and within the upland review area of Morehouse Brook. This road was constructed adjacent to plaintiff’s land, see ¶ 1 above, through heavily forested land at the site and involved removal and clear cutting of trees and removal of wetlands soils.
7. The construction of the road at the site (referenced in ¶ 6 above) included filling the inland wetlands adjacent to Morehouse Brook, filling Morehouse Brook during the installation of a new culvert and bridge crossing through Morehouse Brook.
8. At some point after the summer of 2014 and prior to the end of 2016, the defendant caused or authorized the clear cutting of approximately two acres of forested land beside the defendant’s lake at the site, which included the clear cutting of trees within

the 100-foot upland review area of the western side of the lake for an approximate length of 214 feet.

9. Regarding the activities described in ¶¶ 6-8 above, the defendant did not apply to the Easton Conservation Commission for, nor did it receive from the Easton Conservation Commission a permit to conduct regulated activities.
10. Regarding the activities described in ¶¶ 6-8 above, the defendant did not apply to the Easton Conservation Commission for, nor did it receive from the Easton Conservation Commission a determination of exemption from the municipal wetlands regulations.
11. By virtue of the conduct set forth in the preceding paragraphs, the defendant violated Section 22a-42a (c) (1) of the General Statutes, which prohibits any regulated activity within wetlands or watercourses, from being conducted without a permit authorizing such activity.
12. The plaintiff is personally aggrieved by the defendant's failure to obtain a permit pursuant to Section 22a-42a (c) (1) of the General Statutes, for the regulated activities described in ¶¶ 6-8 above.
13. The plaintiff is personally aggrieved as the owner of land abutting the defendant's site because the defendant has clear cut its property directly abutting the plaintiff's property line, harming the plaintiff's abutting inland wetlands by removal of the defendant's forest.

COUNT II

1. The plaintiff, Daniel Lent, owns the property at 71 Banks Road, Easton, Connecticut 06612 and resides there as well. The plaintiff's property consists of approximately 6 acres of which approximately 3.5 acres is inland wetlands; the property also includes a fork of the Morehouse Brook.
2. The defendant, Amerakon Partners LLC, owns property consisting of more or less 55.7 acres, with no assigned street number on Banks Road, Easton, Connecticut, identified by the Easton Tax Assessor's Office as Map block lot 3777B 3776A 11 ("the site"), recorded by the Easton Town Clerk in the land records at Volume/Page: 0525/0248.
3. The site includes inland wetlands, a lake, Morehouse Brook and other named and unnamed watercourses and the upland review areas associated with those wetlands and watercourses.
4. Regulated activities which are subject to the state Inland Wetlands and Watercourses Act are subject to regulation by the Easton Conservation Commission acting as the Inland Wetlands Agency ("Commission").
5. The property which the plaintiff owns, described in ¶ 1 above, abuts, in part, the site.
6. In 2020 the defendant caused or authorized the construction of a road, without the plaintiff's consent, on the plaintiff's property described in ¶ 1 above, approximately twenty feet long and ten feet wide, in the southeast corner of the plaintiff's property.

7. This road was constructed in heavily forested land on the plaintiff's property and involved removal and clear cutting of all vegetation, including trees, shrubs and brush.
8. Since approximately 2001 the plaintiff has maintained "No Trespassing" signs in the southeast portion of the plaintiff's property as well as throughout his property, described in ¶1, above.
9. This road on the plaintiff's property is located within one hundred feet of inland wetlands and watercourses, i.e., the Morehouse Brook, and within the upland review area of the inland wetlands on the plaintiff's property, all under the purview of the Easton Conservation Commission.
10. Both the plaintiff's property and the defendant's property described in ¶¶ 1 and 2, above, are within the watershed of the Aquarion Water Company which is a major supplier of drinking water to residents in Fairfield County.
11. The removal of vegetation and construction of the road on the plaintiff's property is a regulated activity within the meaning of General Statutes § 22a-38 (19).
12. The road constructed on the plaintiff's property is part of a road beginning on the defendant's adjacent property, described in ¶ 2 above.
13. Upon information and belief, both segments of this road, one portion on the plaintiff's property and the other portion on the defendant's property, were constructed in 2020 ("the 2020 road") and branch off of the road constructed at the site, described in Count I, above.

14. Upon information and belief, the construction of the 2020 road on the defendant's property resulted in (1) the removal of vegetation in the inland wetlands and/or regulated upland review area on the defendant's property and (2) the placement of fill in a fork of the Morehouse Brook on the defendant's property, impairing the Brook.
15. Upon information and belief, the 2020 road on the defendant's property is approximately one hundred feet long.
16. The construction of the 2020 road on the defendant's property occurred within inland wetlands, a watercourse and/or within the regulated upland review area.
17. Regarding the activities described in ¶¶ 6-16 above, the defendant did not apply to the Easton Conservation Commission for, nor did it receive from the Easton Conservation Commission a permit to conduct regulated activities.
18. Regarding the activities described in ¶¶ 6-16 above, the defendant did not apply to the Easton Conservation Commission for, nor did it receive from the Easton Conservation Commission a determination of exemption from the municipal wetlands regulations.
19. By virtue of the conduct set forth in the preceding paragraphs, the defendant violated Section 22a-42a (c) (1) of the General Statutes, which prohibits any regulated activity from being conducted without a permit authorizing such activity.
20. The plaintiff is personally aggrieved by the defendant's failure to obtain a permit pursuant to Section 22a-42a (c) (1) of the General Statutes, for the regulated activities described in ¶¶ 6-15 above.

21. The plaintiff is personally aggrieved as (1) the owner of land on which the defendant constructed a road and removed vegetation and (2) as the owner of land abutting the defendant's property from which the road emanates.

COUNT III

1. Paragraphs 1 through 8, inclusive, of Count II are incorporated herein by reference as Paragraphs 1 through 8, inclusive, of Count III as if more fully set forth.
9. At all times mentioned in this action, the plaintiff has owned and currently owns the property known as 71 Banks Road, Easton, Connecticut.
10. At all times mentioned in this action, the plaintiff has been and is currently in possession of the property known as 71 Banks Road, Easton, Connecticut.
11. The defendant intended to construct the road, which in part, is on the plaintiff's property and intended to remove the vegetation, including trees, shrubs and brush, in order to construct such road, which in part, is on the plaintiff's property and intended to use the road, which in part, is on the plaintiff's property.
12. The removal of all vegetation by the defendant to construct the road in the southeast corner of the plaintiff's property and the construction and the use of the road constructed on the plaintiff's property directly affects and injures the plaintiff's property, the value of that property and the plaintiff's exclusive possessory interest in that property by, among other things, rendering the portion of the plaintiff's property burdened with a road, to be visually and esthetically unappealing, reducing the market

value of the plaintiff's property, damaging and/or destroying permanent survey markers on the plaintiff's property, compromising the property's ecological functioning and contributing to sedimentation and erosion that endangers wetlands and watercourses in the vicinity.

WHEREFORE, pursuant to the common law and Sections 22a-44 and 52-560 of the General Statutes, the Plaintiff prays for relief and respectfully requests that the Court:

1. Enjoin the defendant from authorizing or undertaking any regulated activity at the site or on the plaintiff's property without first having received a permit required by Section 22a-42a (c) (1) of the General Statutes issued by the Easton Conservation Commission; and
2. Order the defendant to restore the wetlands and watercourses at the site and on the plaintiff's property for regulated activities undertaken without a permit required by Section 22a-42a (c) (1) of the General Statutes; and
3. Assess civil penalties pursuant to § 22a-44 (b) of not more than one thousand dollars for each violation, and in the case of the violation continuing from the day of deposit to the day of removal of the unpermitted material, and in the case of the violation continuing from the day of removal of vegetation on the plaintiff's property until the defendant implements a replanting plan, each day's continuance being deemed a separate and distinct offense, an amount of not more than one thousand dollars per day for each day; and
4. Assess treble damages for the removal of trees, timber or shrubbery from the plaintiff's property; and
5. Assess the diminution in the market value of the plaintiff's property from the unconsented removal of vegetation and construction of a road and award as damages; and

6. Assess the cost to replace the permanent survey markers damaged in the construction of the road on the plaintiff's property as damages; and
7. Permanently enjoin use of the portion of the 2020 road constructed on the plaintiff's property by the defendant or its associates or invitees; and
8. Assess the plaintiff his costs, fees, expenses, reasonable costs for witnesses, and a reasonable attorney's fee as damages against the defendant; and
9. Such other relief as the Court may deem just and equitable.

RESPECTFULLY SUBMITTED,

DANIEL LENT
PLAINTIFF

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By _____

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CERTIFICATION

I hereby certify that on this 28th day of January 2021, a copy of the above was mailed or to all counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were electronically served as follows:

As to defendant, Amerakon Partners LLC:

Attorney Robert J. Nicola: rjn@osn-pc.com
Attorney Ryan P. Kelly: rpk@osn-pc.com

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Janet P. Brooks
Commissioner of the Superior Court