

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER**

-----X
MICHAEL TOBIAS,

Plaintiff/Petitioner,

- against -

Index No. 57842/2023

Village Of Mamaroneck, Carolina Fonseca, In Her
Official Capacity As Village Of Mamaroneck Building

Defendant/Respondent.
-----X

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Dated: 3.13.23

KRISTEN K. WILSON, ESQ.

Name

MARKS DIPALERMO WILSON PLLC

Firm Name

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To: VILLAGE OF MAMARONECK

169 MOUNT PLEASANT AVE

MAMARONECK, NY 10543

CAROLINA FONSECA
IN HER OFFICIAL CAPACITY
AS VILLAGE OF MAMARONECK BUILDING INSPECTOR
169 Mount Pleasant Avenue
Mamaroneck, NY 10543

STEVEN TRACHTENBROIT
652 SHORE ACRES DR
MAMARONECK, NY 10543

CAROLINE YOUNG
652 SHORE ACRES DR
MAMARONECK, NY 10543

Tony Gioffre, Esq.
C/o Cuddy and Feder LLP
445 Hamilton Avenue
White Plains, NY 10601

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

MICHAEL TOBIAS,

Plaintiff/ Petitioner,

v.

VILLAGE OF MAMARONECK, CAROLINA
FONSECA, in her official capacity as VILLAGE OF
MAMARONECK BUILDING INSPECTOR, STEVEN
TRACHTENBROIT and CAROLINE YOUNG,

Defendants/Respondents.

Index No.: 57842/2023

**PROPOSED ORDER TO SHOW
CAUSE**

Motion Sequence #1

TO THE ABOVE-NAMED DEFENDANTS/RESPONDENTS:

PLEASE TAKE NOTICE, that upon the annexed attorney affirmation of Kristen K. Wilson, Esq. duly sworn to on the 23rd day of February, 2023, the affidavit of Michael Tobias dated February 13, 2023, the exhibits annexed thereto, and upon all the proceedings in this case to date, let the Defendants/Respondents, Village of Mamaroneck, Carolina Fonseca, in her official capacity as Village of Mamaroneck Building Inspector, Steven Trachtenbroit and Caroline Young show cause before this court ^{in person} ~~with a hearing to be held~~ at the Westchester County Courthouse located at 111 Dr. Martin Luther King Jr. Blvd, White Plains, NY 10601, before Honorable ^{at 11:30 a.m.} David F. Everett on March 16, 2023 why an Order should not be entered granting the following relief:

1. Enjoining and restraining Steven Trachtenbroit and Caroline Young from taking any further action with respect to the building permit issued to Respondents Steven Trachtenbroit and Caroline Young for new construction located at 652 Shore Acres Drive, Mamaroneck, NY; and

ORDERED that pending the hearing and determination of this Preliminary Motion and Temporary Restraining Order, Respondents Steven Trakhtenbrod and Caroline Young and all persons acting under their direction, control or influence with them, do and they hereby are enjoined and restrained from taking any further action, prosecution or approval granted by the Village of Park Ridge or Park Ridge Park District or Park Ridge Park District, Cook County, Illinois, New York and outside the

ORDERED: That the Xing is ordered to conduct an inspection of the work performed by
data collection compliance with all applicable approvals and is further

ORDERED, that service of a copy of this Order, together with the papers on which it was granted, be made upon Respondents' ~~by USPS, FedEx, or UPS overnight delivery and regular first class mail~~
~~no later than the 13th day of March, 2023; and it is further **~~

no later than the 15th day of March, 2023; and it is further
 ORDERED, that the Clerk of the Court copy papers XXXXVS000XXXXXX and XXXXVS000XXXXXX
 2003X and 01X's further

~~ORDERED THAT THE XXXX LACK OF THIS PROHIBITION ON JUDICIAL XXXXX XXXX XXXX~~

~~XXXXXXXXXXXXXXX BE DECIDED ON THE BASIS.~~

ENTER:

D. T. Gentry

Hon. David F. Everett
Supreme Court Justice

**** ORDERED** that an affidavit or proof of service shall be filed via NYSCEF on or before the return date and time set herein; and it is further

ORDERED that no answering or reply papers are to be served, except by express direction of the Court.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

MICHAEL TOBIAS,

Plaintiff/Petitioner,

VILLAGE OF MAMARONECK, CAROLINA
FONSECA, in her official capacity as VILLAGE OF
MAMARONECK BUILDING INSPECTOR, STEVEN
TRACHTENBROIT and CAROLINE YOUNG,

Defendant/Respondents.

Index No.

VERIFIED
COMPLAINT/PETITION

Plaintiff/Petitioner, Michael Tobias (hereinafter referred to as "Petitioner"), by and through his attorney, Marks DiPalermo Wilson PLLC, as and for his Verified Complaint/Article 78 Petition (hereinafter "Complaint"), respectfully alleges as follows against the Village of Mamaroneck, Carolina Fonseca, in her official capacity as Village of Mamaroneck Building Inspector, Steven Trachtenbroit and Caroline Young (the Village of Mamaroneck and Carolina Fonseca, in her official capacity as Village of Mamaroneck Building Inspector are hereinafter referred to collectively as the "Village" and Steven Trachtenbroit and Caroline Young are hereinafter referred to as "Respondent Trachtenbroit"):

PRELIMINARY STATEMENT

1. This is an hybrid proceeding for breach of contract and in the nature of a mandamus ordering the Village of Mamaroneck to immediately inspect the premises located at 652 Shore Acres Road, Mamaroneck, New York (the "Premises").
2. Respondent Trachtenbroit sought approvals from the Village of Mamaroneck to: 1) install a pool; 2) construct a wood deck with a fireplace; 3) construct a one-story pool

- cabana; 4) construct a 2-story breezeway connecting the existing house to the existing garage; 5) construct a 2-story office above the garage; and 6) install stormwater improvements and wetland buffer plantings on a .51 acre property located in a flood hazard area and wetland buffer with an address of 652 Shore Acres Drive, Mamaroneck, New York 10601 (the "Construction Project").
3. Petitioner and Respondent Trachtenbroit had a verbal agreement wherein Respondent Trachtenbroit agreed to limit the portion of the Construction Project directly abutting Plaintiff's property to be no more than 9' 6" in height and no wider/longer than 8' 0" (the "Agreement").
 4. However, Respondent Trachtenbroit is currently in breach of the Agreement as the new addition to his home is 14' 6" in height and 14' and 11" in width (a difference in height of 5' and width 6" 11").
 5. Upon information and belief, the new addition is also in violation of other approvals issued by the Village of Mamaroneck.
 6. Petitioner has repeatedly filed complaints and requested the Village to perform the requisite inspections as required under Village Code Chapter 126 "Building Code Administration and Enforcement".
 7. Accordingly, Petitioner brings this action for a declaration that Respondent Trachtenbroit breached the Agreement and ordering the Village to conduct the required inspections in accordance with the Village Code.

PARTIES

8. At all times relevant hereto, Petitioner resides at 658 Shore Acres Road, Mamaroneck, New York and is a New York State licensed professional engineer .

9. Respondent Village of Mamaroneck is a municipality organized under the New York State Village Law with a principal place of business located at 234 Stanley Avenue, Mamaroneck, New York.
10. Respondent Carolina Fonseca, in her official capacity as Building Inspector, is the duly appointed building inspector of the Village of Mamaroneck.
11. Upon information and belief, Respondent Steven Trachtenbroit and Caroline Young are the current owners and reside at 652 Shore Acres Road, Village of Mamaroneck, New York.

FACTUAL BACKGROUND

12. Throughout the approval process while Respondent Trachtenbroit was before the Planning Board and other local boards for approvals, he had assured Petitioner that the construction of the new addition would be no taller than 9' 6" and no greater than 8' 0" from the rear of his house.
13. Petitioner, a professional engineer, thoroughly reviewed the plans Respondent Trachtenbroit provided to him, had substantive conversations over the primary issue related to the new addition, and discussed how it could be altered to preserve his views from his property located at 658 Shore Acres Drive.
14. As a result, Petitioner did not attend the various public hearings as he had already conferred with Respondent Trachtenbroit and did not need to cause his neighbor any delay or disruption by appearing and commenting at public hearings.
15. Based on the Agreement, Petitioner detrimentally relied on his agreement that he would abide by his promises and has been harmed.

16. Despite the conversations and the verbal agreement between Mr. Tobais and Respondent Trachtenbroit that the Construction Plans would be no taller than 9' 6" and no greater than 8' 0" from the rear of his house, the construction has commenced and it is clear that the addition is approximately 5' taller and 6' 11" longer. *See Exhibit 1 annexed to the Affirmation of Kevin Schultz.*

17. Moreover, it appears that the construction work is not being completed consistent with the approved plans by the Village of Mamaroneck. . *See Exhibit 2 annexed to the Affirmation of Kevin Schultz.*

18. Petitioner and his wife have alerted the Village of Mamaroneck to concerns regarding the construction work and requested inspection of the Premises but, as of the date of this affirmation, the Village of Mamaroneck Building Inspector (the "Inspector") has failed to inspect the construction and the Inspector has not issued a stop work order pending a comprehensive inspection.

19. In addition to the Petitioner's complaints to the Building Inspector, counsel for Petitioner has also reached out to the Building Department to have the Inspector determine whether the work being performed is consistent with the approved plans.

**AS AND FOR A FIRST CAUSE OF ACTION FOR BREACH OF CONTRACT
AGAINST RESPONDENT TRACHTENBROIT**

20. To state a claim for a breach of contract action under New York law, the complaint must allege: i) the formation of a contract between the parties; ii) performance by plaintiff; iii) failure to perform by defendant; and iv) damages.

21. Here, there was a verbal understanding as to the size of a portion of the Construction Project closest to Petitioner's home. Based upon this understanding, Petitioner did not take advantage of his opportunity to comment during public meetings and in response

to Trachendroit's assurance, Petitioner did not object or raise any issues throughout Respondent Trachendroit's land use approval process. Now, however, Respondent Trachendroit has breached the Agreement by building substantially more (both taller and wider) than what was agreed to by the parties and Petitioner is now injured by obstructed views and diminished enjoyment of his property.

22. Petitioner also reasonably relied upon Respondent Trachendroit to submit code compliant plans to the Village and to adhere to those plans.

23. There is a strong likelihood that Petitioner has already been (or may potentially become) further injured with respect to enjoyment of his property, property damage, and environmental damage, all caused by Respondent Trachendroit's failure to comply with the Village Code and/or approved plans an account of (but not limited to) the Premises' overbuilt cabana, construction vibration levels, wetland review, impervious coverage, sewer connection and stormwater protections.

24. As such, this Court should find Respondent Trachendroit in breach of the Agreement and order him to comply with the plans as originally agreed to and as broadly shown on Exhibit 1 to the Schultz Aff.

**AS AND FOR A SECOND CAUSE OF ACTION SEEKING A MANDAMUS
COMPELLING THE VILLAGE TO INSPECT THE CONSTRUCTION PROJECT**

25. The Village of Mamaroneck Code Section 126-12 "Complaints" states, in relevant part:

The Building Inspector shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with...the Code of the Village....The process for responding to a complaint shall include such of the following steps as the Building Inspector may deem to be appropriate:

A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate...;

C. If appropriate, issuing a stop-work order;

26. Here, numerous complaints have been made but the Village has failed to perform the inspections as required under Chapter 126.

27. The requirement to perform inspections when complaints are filed is mandatory and is not a discretionary act.

28. Here, there are open permits for the Construction Project, but the Village has failed to properly inspect the Construction Project.

29. As such, Petitioner is seeking a court order requiring the Village to perform the mandated and required inspections and to take whatever necessary follow up actions are necessary.

AS AND FOR A THIRD CAUSE OF ACTION SEEKING A MANDAMUS COMPELLING RESPONDENT TRACHENDROIT TO PROVIDE ACCESS AND TO PROMPTLY COOPERATE WITH THE VILLAGE IN ALL INPSECTION EFFORTS

30. Upon information and belief, the Village cannot enter Respondent Trachendroit's property without the owner's consent or permission from the Village Court.

31. The Village represented to Petitioner's wife that it mailed a "Notice of Intent to Inspect" to Respondent Trachtenbroit their and contractors on or about February 10, 2023 and that by practice, it allows two weeks for a response.

32. The Village further represented that Respondent's failure to respond to the Notice of Intent to Inspect could result in an appearance ticket returnable to the Village Justice.

33. As of the date of this complaint, upon information and belief, Respondent has not responded or made arrangements to permit inspection.

34. The Village's ability to inspect of the Premises will be an integral source of evidence in the instant matter, both immediately and in the future.
35. Petitioner has a strong interest in protecting the environment, upholding the Village Code and protecting his property interest.
36. The Village's inspection practices and enforcement authority do not allow for prompt and efficient inspections and enforcement, which would delay the expeditious resolution in the instant matter.
37. As such, Petitioner is seeking a court order requiring Respondent to provide access to the Village within 24-48 hours after verbal, telephonic, or electronic notice by the Village, with failure to comply resulting in contempt of this court and without limiting any enforcement or penalties that may be available by the authority of the Village.

WHEREFORE, Plaintiff respectfully requests that judgment be granted against Respondent Trachtenbroit and the Village as follows:

38. On the first cause of action, a declaration that Respondent Trachtenbroit breached the Agreement and ordering him to comply with the plans originally agreed to with Plaintiff and as broadly depicted in Exhibit 1 to the Schultz Affirmation;
39. On the second cause of action, ordering the Village to conduct an inspection immediately in furtherance of its obligations under Village of Mamaroneck Chapter 126 "Building Code Administration and Enforcement";
40. On the third cause of action, ordering the Respondent to provide access to the Village within 24-48 hours after verbal, telephonic, or electronic notice by the Village and
41. Such other and further relief as this Court deems just and proper including attorney's fees, litigation expenses, disbursements and costs of this action.

**Dated: March 3, 2023
White Plains, New York**

MARKS DIPALERMO WILSON PLLC

A handwritten signature in black ink, appearing to be 'Kristen K. Wilson', written over a horizontal line.

**Kristen K. Wilson, Esq.
Kevin Schultz, Esq.
Attorneys for Plaintiff
245 Main Street, Suite 410
White Plains, New York 10601
(914) 844-1909**

VERIFICATION

STATE OF NEW YORK

)

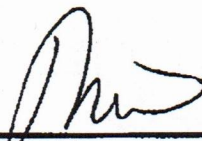
) SS.:

COUNTY OF WESTCHESTER

)

Michael Tobias, being duly sworn, deposes and says:

I am the Plaintiff/Petitioner in the within matter. I have read the foregoing Verified Complaint/Article 78 Petition and know the contents thereof, and the same are true to my own knowledge, except as to those matters therein stated to be alleged upon information and belief, and to those matters, I believe them to be true.



Michael Tobias

Sworn to before me on this 28 day
of February 2023



Alvaro F. Gutierrez
Notary Public, State of New York
No. 01GU6368081
Qualified in Bronx County
Commission Expires December 4, 2025

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

MICHAEL TOBIAS,

Petitioner,

v.

VILLAGE OF MAMARONECK, CAROLINA
FONSECA, in her official capacity as VILLAGE OF
MAMARONECK BUILDING INSPECTOR, STEVEN
TRACHTENBROIT and CAROLINE YOUNG,

Respondents.

Index No.:

**AFFIRMATION IN SUPPORT
OF ORDER TO SHOW CAUSE
FOR A TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Kristen K. Wilson, an attorney duly admitted to practice law in the State of New York, affirms the truth of the following, upon information and belief and under penalty of perjury:

1. I make this affirmation in support of the Order to Show Cause seeking a temporary restraining order preventing Respondents Steven Trachtenbroit and Caroline Young (hereinafter "Respondent Trachtenbroit") from taking any further action pursuant to any and all approvals to issued by the Village of Mamaroneck to: 1) install a pool; 2) construct a wood deck with a fireplace; 3) construct a one-story pool cabana; 4) construct a 2-story breezeway connecting the existing house to the existing garage; 5) construct a 2-story office above the garage; and 6) install stormwater improvements and wetland buffer plantings on a .51 acre property located in a flood hazard area and wetland buffer with an address of 652 Shore Acres Drive, Mamaroneck, New York 10601(the "Construction Project").

2. Upon information and belief, during the course of seeking the necessary approvals from the various boards within the Village of Mamaroneck, Petitioner Michael Tobias ("Petitioner" or "Tobias"), as owner of the adjacent property located at 658 Shore Acres Road and

3. Respondent Village of Mamaroneck (hereinafter referred to as the "Village") is a municipality organized under the New York State Village Law with a principal place of business located at 234 Stanley Avenue, Mamaroneck, New York.

4. Respondent Carolina Fonseca, in her official capacity as Building Inspector, is the duly appointed building inspector of the Village of Mamaroneck.

5. Upon information and belief, Respondent Trachenbroit currently owns and resides at 652 Shore Acres Road, Village of Mamaroneck, New York

FACTUAL BACKGROUND

6. Respondent Trachtenbroit sought approvals from the Village to: 1) install a pool; 2) construct a wood deck with a fireplace; 3) construct a one-story pool cabana; 4) construct a 2-story breezeway connecting the existing house to the existing garage; 5) construct a 2-story office above the garage; and 6) install stormwater improvements and wetland buffer plantings on a .51 acre property located in a flood hazard area and wetland buffer with an address of 652 Shore Acres Drive, Mamaroneck, New York 10601 (the "Construction Project").

7. During the course of seeking the necessary approvals from the various boards within the Village, Petitioner, as owner of the adjacent property located at 658 Shore Acres Road and immediately adjacent to the Construction Project, met and conferred with Respondent Trachtenbroit about the concerns he and his wife had.

8. Petitioner, a professional engineer, thoroughly reviewed the plans Respondent Trachtenbroit provided to him, had substantive conversations over the primary issue related to the new addition, and discussed how it could be altered to preserve his views from his property located at 658 Shore Acres Drive.

9. Based upon the foregoing, it is necessary that Mr. Tobias obtain immediate relief by way of a temporary restraining order and this Order to Show Cause to avoid any further and immediate irreparable harm.

THE COURT MUST GRANT PETITIONER'S MOTION FOR A PRELIMINARY INJUNCTION, BARRING RESPONDENTS FROM TAKING ANY FURTHER ACTION PURSUANT TO THE VILLAGE OF MAMARONECK APPROVALS

10. Respondent Trachtenbroit is in the process of building the Construction Project each day and, as each day passes, the construction equipment disturbs more of the environment, results in irreparable injury to Mr. Tobias and his property and allows Respondent Trachtenbroit to act in violation of his verbal contract with Mr. Tobias.

11. Once the construction occurs and the structures are built, the damage is done. We are simply asking for time for the Court to consider the merits of the underlying Hybrid Proceeding and for the Village of Mamaroneck to issue a stop work order pending such review.

12. It is long established in this Court that a preliminary injunction is the appropriate remedy where the Respondents' actions or threats would cause ongoing injury and harm to the Petitioner. See CPLR § 6301. Without Court intervention in the current case, Mr. Tobias' house and view will be irreparably impacted and his rights to have his day in court and have the underlying proceeding decided will be silenced and diminished.

13. The facts as detailed herein demonstrate that Respondent Trachtenbroit has taken immediate steps to harm Mr. Tobias. The Court's standard of review to prove the need for a preliminary injunction is demonstrated by: (a) irreparable injury in the absence of an injunction, (b) that the balance of the equities favors granting the relief requested, and (c) a likelihood of success on the merits. *Four Times Square Assocs., L.L.C. v. Cigna Invs., Inc.*, 306 A.D.2d 4, 5, 764 N.Y.S.2d 1, 2 (1st Dep't 2003); see also *Park Terrace Caterers v. McDonough*, 9 A.D.2d

113, 191 N.Y.S.2d 1001 (1959); *Barricini, Inc. v. Barricini Shoes, Inc.*, 1 A.D.2d 905, 149 N.Y.S.2d 739 (2d Dep't 1959); *Gilbert v. Burnside*, 6 A.D.2d 834, 175 N.Y.S.2d 989 (2nd Dept., 1958). Accordingly, Mr. Tobias is entitled to a Preliminary Injunction.

14. Of particular note is that a Court may issue a Temporary Restraining Order pending a hearing on the preliminary injunction if the movant faces immediate and irreparable injury or damage. CPLR § 6301. A Preliminary Injunction is not only warranted, but essential to protect the Petitioner's rights and maintain a status quo.

A. Petitioner Will Be Irreparably Harmed Absent the Preliminary Injunction

15. Mr. Tobias will be irreparably harmed if this Court does not grant his request for a Preliminary Injunction. Respondent Trachtenbroit immediate actions to continue construction activities must be halted immediately. Once the sensitive environment is harmed, it is essentially impossible to restore what has been damaged or to do so in any reasonable amount of time. A demonstration of irreparable harm is the key element in a Court's review of the analysis in determining whether to grant a preliminary injunction. *Lumex, Inc. v. Highsmith*, 919 F. Supp. 624, 627 (E.D.N.Y. 1996) (holding that irreparable harm must be likely to occur); *see also Shearson Lehman Bros. Holdings v. Schmetzler*, 116 A.D.2d 216, 229, 500 N.Y.S.2d 512, 520 (1st Dep't 1986).

16. Further continued actions by Respondent Trachtenbroit, if not enjoined, will lead to additional environmental damage and the complete silencing of any of Petitioner's claims in the underlying Article 78 Proceeding. No monetary damages award can reverse the environmental degradation and the aesthetic damage that is about to occur. *Metropolitan Med. Group, P.C. v. Eaton*, 154 A.D.2d 252, 546 N.Y.S.2d 90, 92 (1st Dep't 1989) (a movant must show that monetary sums are insufficient to remedy the harm caused by such actions). If

Respondent Trachtenbroit is not enjoined, it will be impossible to remediate the harm or provide any meaningful monetary compensation for the impact to Petitioner's property. Accordingly, a monetary damage award cannot cure the immediate and ongoing threat posed by the Respondent Trachtenbroit malicious and orchestrated actions to silence Petitioner. The only reasonable remedy is to issue an injunction to bar the Respondent Trachtenbroit for taking any more action in furtherance of the Construction Project.

B. The Balancing of Equities Favors the Petitioner

17. The Court must restrain Respondent Trachtenbroit because the balance of hardships weighs heavily in favor of Petitioner. The harm caused by Respondents' actions vastly outweighs any harm Respondents could suffer when this motion is granted. Mr. Tobias has a strong interest in protecting the environment, upholding the Village Code and protecting his property interest. On the other hand, Respondents will realize no harm if no further work is taken pending the resolution of the underlying proceeding.

18. The ultimate balance of the equities in this case tips heavily in Mr. Tobias' favor. Mr. Tobias will suffer immediate and irreparable damage to his property and the environment that exists today will be destroyed. Meanwhile Respondents would keep their status quo and suffer no damage.

C. Petitioner Will Succeed on the Merits

19. Mr. Tobias had a clear and unequivocal verbal agreement with Respondent Trachtenbroit. As a result of that verbal agreement, Mr. Tobias relied on Respondent Trachtenbroit's promises and did not attend the public hearings as Mr. Tobias' concerns had been addressed. Now, Respondent Trachtenbroit is clearly violating this verbal agreement and causing damage to Mr. Tobias' property.

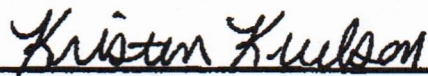
20. In the Hybrid Proceeding, Mr. Tobias is seeking a mandamus ordering the Village of Mamaroneck to issue a stop work order and a determination that Respondent Trachtenbroit has violated the verbal agreement reached between him and Mr. Tobias.

21. There is overwhelming evidence satisfying the elements of Mr. Tobais' breach of contract action which gives rise to this motion. There is no question as to the strength of Mr. Tobais' claims and he will unquestionably succeed on the merits of these claims.

CONCLUSION

For the foregoing reasons, it is respectfully requested that the Petitioner's application for a preliminary injunction and a temporary restraining order be granted.

Dated: February 23, 2023
White Plains, NY



Kristen K. Wilson, Esq.
Marks DiPalermo Wilson PLLC
245 Main Street, Suite 410
White Plains, New York 10601

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

MICHAEL TOBIAS,

Plaintiff/Petitioner,

VILLAGE OF MAMARONECK, CAROLINA
FONSECA, in her official capacity as VILLAGE
MAMARONECK BUILDING INSPECTOR,
STEVEN TRACHTENBROIT and CAROLINE
YOUNG,

Defendant/Respondents..

Index No.:

**AFFIRMATION IN SUPPORT OF
VERIFIED COMPLAINT/PETITION**

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

Kevin E. Schultz, an attorney duly admitted to practice law in the State of New York,
affirms the truth of the following, upon information and belief and under penalty of perjury:

1. I make this affirmation in support of the Verified Complaint/Petition seeking relief for breach of contract against Respondents Steven Trachtenbroit and Caroline Young (hereinafter "Respondent Trachtenbroit" or "Trachtenbroit"); in the nature of a mandamus ordering the Village of Mamaroneck to immediately inspect the premises located at 652 Shore Acres Road, Mamaroneck, New York (the "Premises") and issue a stop work order if appropriate; and in the nature of a mandamus ordering Trachtenbroit to promptly cooperate with Village of Mamaroneck inspection requests.

PARTIES

2. At all times relevant hereto, Petitioner Michael Tobias ("Petitioner" or "Tobias") resides at 658 Shore Acres Road, Mamaroneck, New York and is a New York licensed, professional engineer.

immediately adjacent to the Construction Project, met and conferred with Respondent Trachtenbroit about the concerns he and his wife had.

3. Mr. Tobias, as a trained professional engineer, has the knowledge and skill to review and understand construction plans, impacts of development to sensitive environmental areas, and can easily visualize how the plans translate to as-built structures.

4. Despite the conversations and verbal agreement between Mr. Tobais and Respondent Trachtenbroit that the Construction Plans would include an addition no greater than 8'0" from the rear of his house and no taller than 9' 6", the final approved plans do not reflect the verbal agreement made.

5. Moreover, it appears that the construction work is not being completed consistent with the approved plans by the Village of Mamaroneck.

6. Mr. Tobias has alerted the Village of Mamaroneck to his concerns regarding the construction work but, as of the date of this affirmation, the Village of Mamaroneck Building Inspector (the "Inspector") has failed to inspect the construction and the Inspector has not issued a stop work order pending a comprehensive inspection.

7. In addition to Mr. Tobias' complaints to the Building Inspector, I have also reached out to the Building Department to have the Inspector determine whether the work being performed is consistent with the approved plans.

8. After numerous attempts to stop the construction before more damage is done, Mr. Tobias is left without any other recourse than to seek a preliminary injunction and temporary restraining order pending the Court's consideration of the underlying Article 78/Hybrid proceeding regarding Respondent Trachtenbroit's breach of their verbal agreement.

9. Petitioner and Respondent Trachtenbroit had a verbal agreement wherein Respondent Trachtenbroit agreed to limit the portion of the Construction Project directly abutting Plaintiff's property to be no wider/longer than 8' 0" and no more than 9' 6" in height (the "Agreement").

10. Petitioner has the knowledge and skill to review and understand construction plans, impacts of development to sensitive environmental areas, and can easily visualize how the plans translate to as-built structures.

BREACH OF CONTACT

11. Throughout the approval process while Respondent Trachtenbroit was before the Planning Board and other local boards for approvals, he had assured Petitioner that the construction of the new addition would be no greater than 8' 0" from the rear of his house and no taller than 9' 6".

12. Despite the conversations and verbal agreement, Respondent Trachtenbroit is currently in breach of the Agreement as the new addition to his home is 14' and 11" in width and 14' 6" in height (a difference in width of 6" 11" and height of 5'), *See Exhibit 1, Petitioner's photographs and measurements.*

13. Petitioner detrimentally relied on the Agreement, and as a result Petitioner did not attend the various public hearings as he had already conferred with Respondent Trachtenbroit and did not need or wish to cause his neighbor any delay or disruption by appearing and commenting at public hearings.

14. Based upon the Agreement, Petitioner did not take advantage of his opportunity to comment during public meetings and is now injured by obstructed views and diminished enjoyment of his property.

15. As such, this Court should find Respondent Trachendroit in breach of the Agreement and order him to comply with the plans as originally agreed to and as broadly shown on Exhibit 1.

**CONSTRUCTION WORK NON-COMPLIANT WITH VILLAGE CODE AND WITH
APPROVED PLANS**

16. Moreover, upon information and belief and based on the engineering expertise of Petitioner, construction work at the Premises is not being completed consistent with the Village code nor compliant with the plans approved by the Village. *See Exhibit 2, Complaint: Construction at 652 Shore Acres Drive.*

17. Petitioner reasonably relied upon Respondent Trachendroit to submit code compliant plans to the Village and to adhere to those plans.

18. There is a strong likelihood that Petitioner has already been (or may potentially become) further injured, beyond the breach of contract, with respect to enjoyment of his property, property damage, and environmental damage, all caused by Respondent Trachendroit's failure to comply with the Village Code and/or approved plans for reasons including (but not limited to) the Premises' overbuilt cabana, construction vibration levels, wetland review, impervious coverage, sewer connection and stormwater protections.

19. Petitioner has a strong interest in protecting the environment, upholding the Village Code and protecting his property interest.

20. Respondent Trachtenbroit is in the process of building the Construction Project each day and, as each day passes, the construction equipment disturbs more of the environment which will likely lead to additional injury.

THE VILLAGE'S FAILURE TO INSPECT

21. Petitioner and his wife alerted the Village of Mamaroneck to concerns regarding the construction work and requested inspection of the Premises.

22. The Village is obligated to perform the requisite inspections as required under Village Code Chapter 126 "Building Code Administration and Enforcement."

23. In addition to the Tobias' complaints to the Inspector, Petitioner's counsel has also contacted the Village Building Department to have the Inspector determine whether the work being performed is consistent with the approved plans.

24. As of the date of this affirmation, upon information and belief, the Village of Mamaroneck Building Inspector (the "Inspector") has failed to inspect the Premises construction and the Inspector has not issued a stop work order, pending a comprehensive inspection.

25. Here, numerous complaints have been made and there are open permits, but the Village has failed to perform the inspections as required under its own Chapter 126.

26. The requirement to perform inspections when complaints are filed is mandatory and is not a discretionary act according to Chapter 126.

27. As such, Petitioner is seeking a court order requiring the Village to perform the mandated and required inspections and to take whatever necessary follow up actions are necessary.

SITE ACCESS

28. Upon information and belief, The Village cannot enter Respondent Trachendroit's property without the owner's consent or permission from the Village Court.

29. The Village represented to Petitioner's wife that it mailed a "Notice of Intent to Inspect" to Respondent Trachtenbroit their and contractors on or about February 10, 2023 and that by practice, it allows two weeks for a response.

30. The Village further represented that Respondent's failure to respond to the Notice of Intent to Inspect could result in an appearance ticket returnable to the Village Justice.

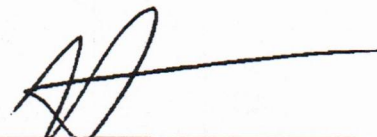
31. As of the date of this affidavit, upon information and belief, Respondent has not responded or made arrangements to permit inspection.

32. As such, Petitioner is seeking a court order requiring Respondent Trachtenbroit to provide access to the Village within 24-48 hours after verbal, telephonic, or electronic notice by the Village, with failure to comply with such order resulting in contempt of court without limiting any enforcement or penalties that may be available by the authority of the Village.

CONCLUSION

33. For the foregoing reasons, it is respectfully requested that judgment be granted with a declaration that Respondent Trachtenbroit breached the Agreement, ordering Respondent Trachtenbroit to comply with the plans originally agreed to with Plaintiff; and further ordering the Village to conduct an inspection immediately in furtherance of its obligations under Village of Mamaroneck Chapter 126 "Building Code Administration and Enforcement," and further ordering Respondent Trachtenbroit to cooperate with the Village's inspection efforts, and such other and further relief as this Court deems just and proper including attorney's fees, litigation expenses, disbursements and costs of this action.

Dated: March 3, 2023
White Plains, NY



Kevin E. Schultz, Esq.
Marks DiPalermo Wilson PLLC
245 Main Street, Suite 410
White Plains, New York 10601

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

MICHAEL TOBIAS,

Petitioner,

v.

VILLAGE OF MAMARONECK, CAROLINA
FONSECA, in her official capacity as
VILLAGE OF MAMARONECK BUILDING
INSPECTOR, STEVEN TRACHTENBROIT
and CAROLINE YOUNG,

Respondents.

Index No.:

**AFFIDAVIT OF MICHAEL TOBIAS IN
SUPPORT OF ORDER TO SHOW
CAUSE AND PRELIMINARY
INJUNCTION**

STATE OF NEW YORK)

) ss.

COUNTY OF WESTCHESTER)

MICHAEL TOBIAS, being duly sworn, deposes and says:

1. I am the Petitioner in the above-referenced matter, and I am fully familiar with the facts and circumstances relevant to this proceeding.

2. I submit this Affidavit in support of the Order to Show Cause seeking a temporary restraining order and preliminary injunction pending compliance with the verbal agreement made between myself and Respondents Trachtenbroit and Caroline Young (collectively referred to herein as "Respondent Trachtenbroit") and a review by the Village of Mamaroneck Building Inspector confirming the construction work is consistent with the Village of Mamaroneck approvals.

3. Simultaneously with this request for an order to show cause and preliminary injunction, I have commenced a hybrid Article 78 proceeding and breach of contract action (the "Hybrid Proceeding") seeking to compel the Village of Mamaroneck Building Inspector to issue

a stop work order and to find Respondent Trachtenbroit in breach of his verbal agreement regarding his project to: 1) install a pool; 2) construct a wood deck with a fireplace; 3) construct a one-story pool cabana; 4) construct a 2-story breezeway connecting the existing house to the existing garage; 5) construct a 2-story office above the garage; and 6) install stormwater improvements and wetland buffer plantings on a .51 acre property located in a flood hazard area and wetland buffer with an address of 652 Shore Acres Drive, Mamaroneck, New York 10543 (the "Construction Project").

4. By way of background, I am a professional engineer and licensed in the State of New York. I regularly review construction plans and understand how the drawings translate to the physical building that will eventually be constructed. In addition, I also understand how construction can impact wetlands and other environmentally sensitive areas. I live at 658 Shore Acres Drive, Mamaroneck - immediately adjacent to Respondent Trachtenbroit's property.

5. Throughout the approval process while Respondent Trachtenbroit was before the Planning Board and other local boards for approvals, he had assured me that the construction of the new addition would be no greater than 8' 0" from the rear of his house and no taller than 9' 6".

6. I thoroughly reviewed the plans Respondent Trachtenbroit provided to me, had substantive conversations over the primary issue related to the new addition, and discussed how it could be altered to preserve my views from my property located at 658 Shore Acres Drive.

7. As a result, I did not attend the various public hearings as I had already conferred with Respondent Trachtenbroit and did not need to cause my neighbor any delay by appearing and commenting at public hearings.

8. Apparently, I detrimentally relied on his agreement that he would abide by his promises to me.

9. Now, construction has commenced and it is clear that the addition is approximately 5' taller and 6' 11" longer than what Respondent Trachtenbroit promised. The proposed location significantly blocks my views and infringes on my own privacy. Attached hereto as Exhibit 1 are pictures showing the significant size of the illegal addition.

10. Had I known that Respondent Trachtenbroit was not going to comply with his verbal agreement with me, I would have appeared at the various public meetings to express my concerns rather than giving my implicit consent to the Construction Project.

11. Equally important to Respondent Trachtenbroit's breach of his verbal agreement are the numerous violations of the approved plans.

12. Annexed hereto as Exhibit 2 is a complaint that I filed with the Village of Mamaroneck Building Department that outlines just some of the violations of the approved plans, the Village of Mamaroneck Village Code, and other OSHA related safety regulations.

13. Over the past two weeks, I have repeatedly requested that the Building Department inspect the Construction Project as I noted significant discrepancies with the work when compared to the original plans.

14. To date, the Building Department has not visited the Construction Project to address my concerns and has only requested permission to enter the property to inspect same.

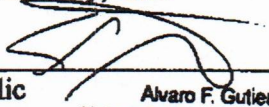
15. It is clear that Respondent Trachtenbroit is continuing work every day.

16. As set forth in the accompanying Affirmation of Kristen K. Wilson sworn to on February 26, 2023, if Respondent Trachtenbroit is allowed to continue work, I will suffer irreparable and immediate harm.

17. Each day construction work continues, the impact to my property grows and the sensitive environmental areas increase and if it is not immediately stopped, it will be too late to protect my rights.
18. There is absolutely no harm to Respondent Trachtenbroit if this Court grants a temporary restraining order pending the hearing on the preliminary injunction.
19. The equities clearly fall in favor of maintaining the status quo pending resolution of this motion.
20. Finally, there is a substantial likelihood of success on the merits of the Hybrid Proceeding.

Sworn to before me this
13 day of February, 2023

Notary Public


Alvaro F. Gutierrez
Notary Public, State of New York
No. 01GU6362081
Qualified in Bronx County
Commission Expires December 4, 2025

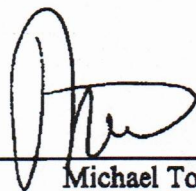
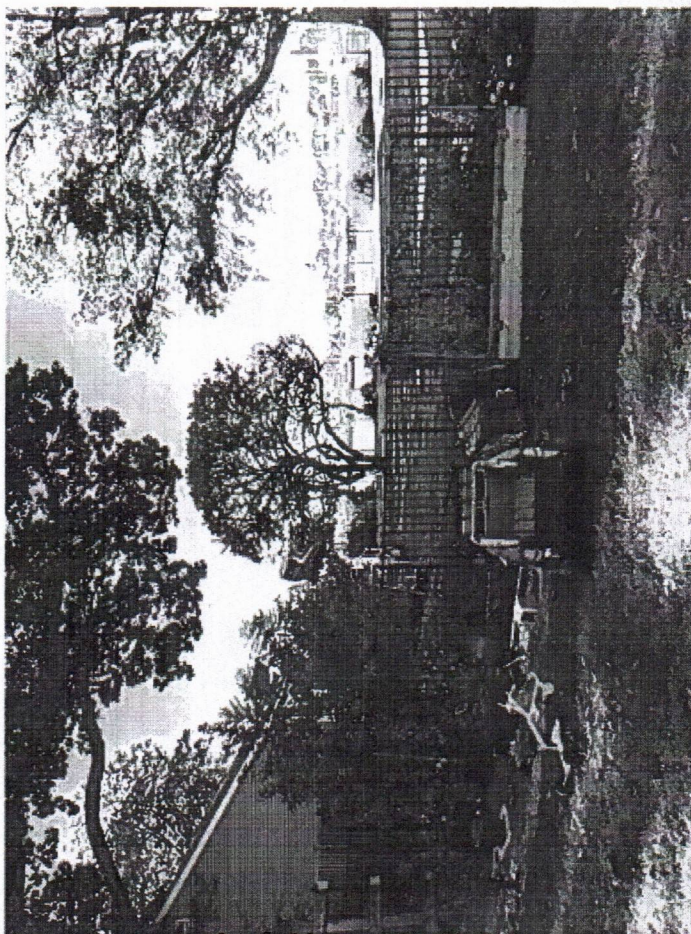

Michael Tobias

EXHIBIT 1

As-Built 2-17-2023



Original Agreement 10-14-2020



As-Built 2-17-2023



Original Agreement 10-14-2020



As-Built 2-17-2023



Original Agreement 10-14-2020

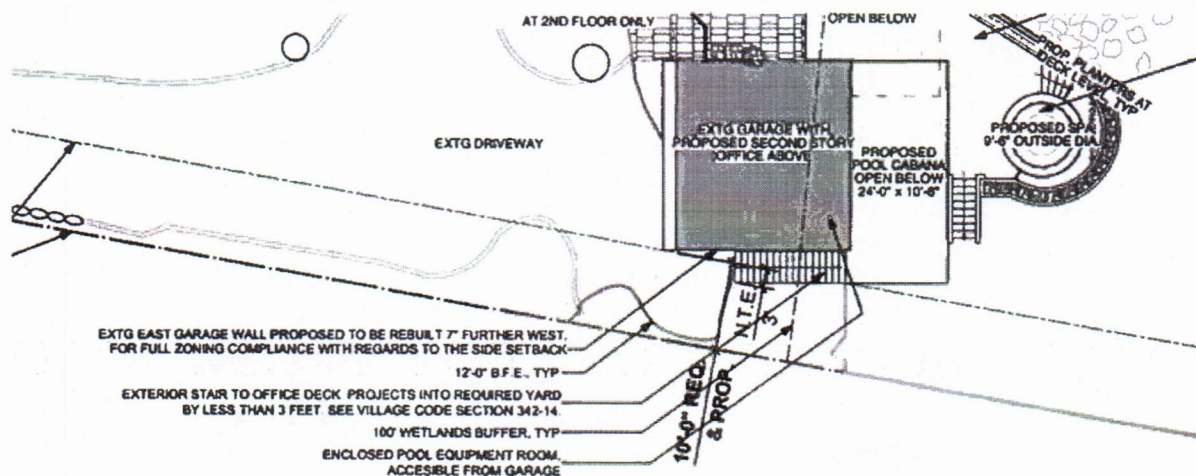


EXHIBIT 2

Complaint: Construction at 652 Shore Acres Drive 1-30-2023

1. Not building according to plans

Pool Cabana is overbuilt beyond the 24'x10'-6" shown in the approved plans



2. Noise

Code reference: Building Code Chapter 126 Building Code Administration and Enforcement

254-5 Maximum decibel levels permitted 70 dbA max

This noise level was exceeded everyday, since construction started on 9/2022 to present. Actual data noise data was recorded on the recent days. 1 noise report is attached. All work on the site should stop until a proper noise mitigation plan is established.

3. Vibration

Soil vibration is over 0.1 in/s from unsafe excavation, heavy construction equipment movement, and demolition, and construction. The soil is low quality loose backfill that's transmitting vibration easily. Compounded by high tide waterline creating a high water table line. Two homes away was the construction death from excavation in this soil. Our house is shifting, doors misaligning, window panes cracking, walls cracking. The public sewer pipe in the backyard and all underground pipes connecting our home to the sewer need to be excavated and inspected for damage. Underground domestic water piping needs to be excavated and inspected for damage. See the 3 vibration event reports submitted. Our homes foundation is likely damaged, we need to stop all work, excavate our foundation to survey damage, come up with a mitigation solution before any further damage occurs.

4. Nothing displayed on-site: No construction permits, No wetland permits, No contractors license and insurance

5. Wetland permit to build within 100' of wetland based on materially substantially fraudulent information

. May26, 2021 planning board meeting minutes:

- Short form Environmental Assessment Form not valid, need to submit a long EAF form

6. OSHA construction violations:

No PPE being worn by workers, no gloves, no hardhats, no masks, no fall safety harnesses and OSHA required tie-off. For doing all roofing work and all work above 6' off the ground. Trip hazards of construction material and tools non-compliant with OSHA requirements. No lock-out tag-out of electrical circuits for electrocution safety

7. Contractor is covering, contractor permit pulled is not Uri Construction it's another GC. Uri Construction is onsite performing work.

8. EAF short form contains numerous substantially material fraudulent answers:

Impervious concrete patio, footings, pool are build inside the 100' wetland buffer. This is not permitted under the zoning regulation. Answer 5a, 5b and 6 are fraudulent and should be "No"

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

The wall construction, glazing, and hvac system fall below energy code requirements. See the energy code violation section for details. Answer 9 is fraudulent and should be "No"

action?	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES
9. Does the proposed action meet or exceed the state energy code requirements?		
If the proposed action will exceed requirements, describe design features and technologies:	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Underground connection to the sewer in the backyard are being constructed. Answer 9 is fraudulent and should be "No"

	NO	YES
11. Will the proposed action connect to existing wastewater utilities?		
If No, describe method for providing wastewater treatment:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
N/A		

The proposed action is physically altering and encroaching into the 100' wetland buffer. Answer 13b is fraudulent and should be "No", the extent is roughly 1/8 acre.

	NO	YES
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres:		

Answer 17a is fraudulent, should be "Yes". The storm water drainage plan is inadequate and will only collect partial stormwater. A portion of stormwater will discharge across our property line directly affecting our property.

	NO	YES
17. Will the proposed action create storm water discharge, either from point or non-point sources?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes,		
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes, briefly describe:		
Stormwater runoff will be collected from the proposed impervious areas via a comprehensive stormwater collection system and conveyed to the proposed stormwater practice.		

Storm Water Protection Plan

Planning Board SWPP uploaded 4/23/2021 was reviewed. Besides silt fences, none of the approved stormwater protections have been followed. No spill basins constructed, no catch basin filtering, no monthly report, no monitoring, etc. All work should stopped until this is corrected. Below is a summary from the approved SWPP requiring these items.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM FOR CONSTRUCTION
ACTIVITIES
CONSTRUCTION SITE LOG BOOK

Table of Contents

- I. Pre-Construction Meeting Documents
 - a. Preamble to Site Assessment and Inspections
 - b. Operator's Certification
 - c. Qualified Professional's Credentials & Certification
 - d. Pre-Construction Site Assessment Checklist
- II. Construction Duration Inspections
 - a. Directions
 - b. Modification to the SWPPP
- III. Monthly Summary Reports
- IV. Monitoring, Reporting, and Three-Month Status Reports
 - a. Operator's Compliance Response Form

Properly completing forms such as those contained in Appendix II meet the inspection requirement of NYS DEC SPDES-GP for Construction Activities. Completed forms shall be kept on site at all times and made available to authorities upon request.

August 2005

Page 11.1

New York Standards and Specifications
For Erosion and Sediment Control

Per 126-7 of the building code. And immediate stop work order and full inspection of the site for further issues is requested. In the interest of safety and time, we're issuing this now. This is not a comprehensive list. As we continue to review the work performed more issues are expected.

Sincerely,



Michael Tobias NY PE# 086805

Homeowner 658 Shore Acres Drive Mamaroneck, NY 10543

Request for Judicial Intervention Addendum

Supreme COURT, COUNTY OF Westchester

Index No:**For use when additional space is needed to provide party or related case information.****PARTIES:** For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in "Attorneys" space.

Un-Rep	Parties List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3 rd party plaintiff, etc.)	Attorneys and Unrepresented Litigants For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	Issue Joined For each defendant, indicate if issue has been joined.	Insurance Carriers For each defendant, indicate insurance carrier, if applicable.
<input checked="" type="checkbox"/>	Name: CAROLINA FONSECA, in her official capacity as VILLAGE OF MAMARONECK BUILDING INSPECTOR Role(s): Defendant/Respondent	234 STANLEY AVE, MAMARONECK, NY 10543, 19147771012	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

RELATED CASES: List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases.



REQUEST FOR JUDICIAL INTERVENTION

Supreme COURT, COUNTY OF Westchester

Index No: _____ Date Index Issued: _____

For Court Use Only:

CAPTION

Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet.

IAS Entry Date

MICHAEL TOBIAS

Judge Assigned

-against-

Plaintiff(s)/Petitioner(s)

VILLAGE OF MAMARONECK, CAROLINA FONSECA, in her official capacity as VILLAGE OF MAMARONECK BUILDING INSPECTOR, STEVEN TRACHTENBROIT, CAROLINE YOUNG

RJI Filed Date

Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING: Check only one box and specify where indicated.

COMMERCIAL

- ☐ Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.)
☒ Contract
☐ Insurance (where insurance company is a party, except arbitration)
☐ UCC (includes sales and negotiable instruments)
☐ Other Commercial (specify): _____

NOTE: For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the **COMMERCIAL DIVISION RJI ADDENDUM (UCS-840C)**.

TORTS

- ☐ Adult Survivors Act
☐ Asbestos
☐ Environmental (specify): _____
☐ Medical, Dental or Podiatric Malpractice
☐ Motor Vehicle
☐ Products Liability (specify): _____
☐ Other Negligence (specify): _____
☐ Other Professional Malpractice (specify): _____
☐ Other Tort (specify): _____

SPECIAL PROCEEDINGS

- ☐ Child-Parent Security Act (specify): ☐ Assisted Reproduction ☐ Surrogacy Agreement
☐ CPLR Article 75 - Arbitration [see NOTE in COMMERCIAL section]
☐ CPLR Article 78 - Proceeding against a Body or Officer
☐ Election Law
☐ Extreme Risk Protection Order
☐ MHL Article 9.60 - Kendra's Law
☐ MHL Article 10 - Sex Offender Confinement (specify): ☐ Initial ☐ Review
☐ MHL Article 81 (Guardianship)
☐ Other Mental Hygiene (specify): _____
☐ Other Special Proceeding (specify): _____

MATRIMONIAL

- ☐ Contested

NOTE: If there are children under the age of 18, complete and attach the **MATRIMONIAL RJI Addendum (UCS-840M)**.

For Uncontested Matrimonial actions, use the Uncontested Divorce RJI (UD-13).

REAL PROPERTY Specify how many properties the application includes: _____

- ☐ Condemnation
☐ Mortgage Foreclosure (specify): ☐ Residential ☐ Commercial

Property Address: _____

NOTE: For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the **FORECLOSURE RJI ADDENDUM (UCS-840F)**.

- ☐ Partition

NOTE: Complete and attach the **PARTITION RJI ADDENDUM (UCS-840P)**.

- ☐ Tax Certiorari (specify): Section: _____ Block: _____ Lot: _____
☐ Tax Foreclosure
☐ Other Real Property (specify): _____

OTHER MATTERS

- ☐ Certificate of Incorporation/Dissolution [see NOTE in COMMERCIAL section]
☐ Emergency Medical Treatment
☐ Habeas Corpus
☐ Local Court Appeal
☐ Mechanic's Lien
☐ Name Change/Sex Designation Change
☐ Pistol Permit Revocation Hearing
☐ Sale or Finance of Religious/Not-for-Profit Property
☐ Other (specify): _____

STATUS OF ACTION OR PROCEEDING Answer YES or NO for every question and enter additional information where indicated.

YES NO

- Has a summons and complaint or summons with notice been filed? ☐ YES ☒ NO If yes, date filed: _____
 Has a summons and complaint or summons with notice been served? ☐ YES ☒ NO If yes, date served: _____
 Is this action/proceeding being filed post-judgment? ☐ YES ☒ NO If yes, judgment date: _____

NATURE OF JUDICIAL INTERVENTION Check one box only and enter additional information where indicated.

- ☐ Infant's Compromise
☐ Extreme Risk Protection Order Application
☐ Note of Issue/Certificate of Readiness
☐ Notice of Medical, Dental or Podiatric Malpractice
☐ Notice of Motion
☐ Notice of Petition
☒ Order to Show Cause
☐ Other Ex Parte Application
☐ Partition Settlement Conference
☐ Poor Person Application
☐ Request for Preliminary Conference
☐ Residential Mortgage Foreclosure Settlement Conference
☐ Writ of Habeas Corpus
☐ Other (specify): _____

Date Issue Joined: _____

Relief Requested: _____

Relief Requested: _____

Relief Requested: Injunction/Restraining Order

Relief Requested: _____

Return Date: _____

Return Date: _____

Return Date: _____

RELATED CASES				
List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank. If additional space is required, complete and attach the RJI Addendum (UCS-840A) .				
Case Title	Index/Case Number	Court	Judge (if assigned)	Relationship to instant case

PARTIES				
For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided. If additional space is required, complete and attach the RJI Addendum (UCS-840A) .				
Un-Rep	Parties	Attorneys and Unrepresented Litigants	Issue Joined	Insurance Carriers
	List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3 rd party plaintiff, etc.)	For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	For each defendant, indicate if issue has been joined.	For each defendant, indicate insurance carrier, if applicable.
<input type="checkbox"/>	Name: TOBIAS, MICHAEL Role(s): Plaintiff/Petitioner	KRISTEN WILSON, MARKS DIPALERMO WILSON PLLC, 245 Main Street Suite 410 , WHITE PLAINS, NY 10601, (914) 844-1909, kwilson@blanchardwilson.com	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: VILLAGE OF MAMARONECK Role(s): Defendant/Respondent	234 STANLEY AVE, MAMARONECK, NY 10543, 19147771012	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: CAROLINA FONSECA, in her official capacity as VILLAGE OF MAMAR... Role(s): Defendant/Respondent	234 STANLEY AVE, MAMARONECK, NY 10543, 19147771012	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: TRACHTENBROIT, STEVEN Role(s): Defendant/Respondent	652 SHORE ACRES DR, MAMARONECK, NY 10543	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: YOUNG, CAROLINE Role(s): Defendant/Respondent	652 SHORE ACRES DR, MAMARONECK, NY 10543	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	
<input type="checkbox"/>	Name: Role(s):		<input type="checkbox"/> YES <input type="checkbox"/> NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.

Dated: 03/03/2023

KRISTEN KELLEY WILSON

Signature

4219903

Attorney Registration Number

KRISTEN KELLEY WILSON

Print Name

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