

DOCKET NO: KNLCV166027254S

SUPERIOR COURT

TOWN OF LEDYARD Et Al
V.
PERKINS PROPERTIES LLC

JUDICIAL DISTRICT OF NORWICH/NEW
LONDON
AT NEW LONDON

1/30/2020

ORDER

ORDER REGARDING:

11/14/2019 124.00 MOTION FOR CONTEMPT POST-JUDGMENT

The foregoing, having been heard by the Court, is hereby:

ORDER: GRANTED

This is a zoning enforcement matter involving property located at 756 Lantern Hill Road, in Ledyard, Connecticut. The chronology of this matter is noteworthy. Judgment in accordance with a stipulation was originally granted by the court (Cosgrove, J.) on December 1, 2016, prohibiting any commercial activity or uses necessary to commercial activity on the property but permitting agricultural activity. Pursuant to that stipulation, paragraph five noted that any violation of the agreement would constitute a willful violation of the regulations, punishable by a fine equal to the greater of \$250 per day as long as the violation continued.

The first post judgment motion for contempt was filed by the plaintiff on February 8, 2017, and was heard by the court on April 4, 2017. A decision on the motion was rendered on November 15, 2017, granting the motion for contempt and awarding the plaintiff \$2250 in fines and \$1000 in attorney's fees. (Cole-chu, J.) That decision was appealed to the Appellate Court which affirmed the trial court's decision on January 29, 2019.

A second post judgment motion for contempt was filed with the court on June 3, 2019, and subsequently heard on October 10, 2019. On that date, the court (Handy J.) with agreement of the parties, granted the motion for contempt and entered an order requiring the defendant to pay \$1500 in fines for six days of willful violation of the original order and \$500 in attorney's fees. This total of \$2000 was in addition to fines and costs previously assessed against the defendant of \$6,662 for a grand total of \$8,662, payable with a first installment of \$1,500 on or before October 17, 2019, followed by \$800 payments commencing November 1 2019, and the first of every month thereafter until paid in full.

On November 14, 2019, the plaintiff filed its third post judgment motion for contempt arguing that the defendant only made the first payment of \$1,500 and no other payments have been made.

This third post judgment motion for contempt was before the court this day, January 30, 2020, at which time all parties appeared and had an opportunity to be heard. The plaintiff called four witnesses: Mr. Kyle Faulise, the town's zoning enforcement officer who took photographs of alleged illegal activity on the subject property, Mr. Kiernan Day and Ms. Jennifer Day, adjacent property owners who took additional photographs of alleged illegal activity on the subject property, and in rebuttal Ms. Elizabeth Burdick, the town's director of planning, who testified about the defendant's payments to the town.

The defendant testified in his own behalf. The defendant testified that aside from "maybe some beef cows" on the Ledyard property in the late spring or early summer of 2019, no agricultural activity had occurred on the property in 2019.

Having had an opportunity to review the testimony of the witnesses and the evidence before it, this court makes the following findings:

1. The defendant has paid \$1,500 from the court's order of October 10, 2019 totaling \$8,662. The balance owed on the order is \$7162.
2. Based on the evidence before the court this day, the court finds the defendant has willfully violated the orders of the October 10, 2019 stipulation by failing to make any payments subsequent to the \$1,500 payment and that constitutes a willful violation of the order. That violation commenced on October 18, 2019, the day after the defendant owed the first payment and continued until November 14, 2019, the date of the filing of this post judgment motion for contempt. That constitutes a total of 28 days with fines of \$250 per day for a total of \$7000.
3. In addition to these daily fines, the plaintiff has substantiated violations by the defendant on the Ledyard property in many of the photographic exhibits presented to the court. The court finds willful violations on the following days: from the testimony of the zoning enforcement officer, 1/23/20 and 12/5/19. The court also finds that the defendant violated the order on October 31, 2019, but has already been fined by the court in paragraph #2. The court does not find violations from that group of photographs (Plaintiff's 3) for 1/14/20, 12/18/19, 12/2/19, or 11/21/19 as those pictures note barrels and tires on the property only which this court does not find to be a willful violation of the original stipulated judgment. Those violations total two days for additional fines of \$500 at \$250 per day.
4. In addition, the plaintiff has substantiated violations of the stipulation on the Ledyard property from the testimony of Mr. and Mrs. Day in other photographs (P's 1 and 2) The court finds willful violations on the following days: 10/12/19, 11/18/19, 11/26/19, 12/5/19, 12/16/19, 12/30/19, 12/31/19, 1/22/20, and 1/24/20. (Plaintiff's 1) As previously noted, even though violations occurred on other of the days testified to by Mr. Day, fines have already issued for those days in paragraph #2. The court also finds violations on 10/11/19, 11/29/19, 12/10/19 and 12/24/19. (Plaintiff's 2) Again, even though the court finds that a violation occurred on 11/7/19, a fine has already been issued for that date. In total then, from Plaintiff's 1 and 2, the court finds 13 days of violations totaling \$3,250 at the rate of \$250 per day.

Accordingly, the plaintiff's post judgment motion for contempt is granted as the defendant has willfully violated the collective orders of the court. Judgment may enter in the total amount of \$17,912. Additionally, this court also awards attorney's fees in the amount of \$1,050.

Judicial Notice (JDNO) was sent regarding this order.

407898

Judge: SUSAN B HANDY

This document may be signed or verified electronically and has the same validity and status as a document with a physical (pen-to-paper) signature. For more information, see Section I.E. of the *State of Connecticut Superior Court E-Services Procedures and Technical Standards* (<https://jud.ct.gov/external/super/E-Services/e-standards.pdf>), section 51-193c of the Connecticut General Statutes and Connecticut Practice Book Section 4-4.