

FILED
09-01-2023
Clerk of Circuit Court
Kenosha County
2023CV000878
Honorable David Wilk
Branch 5

STATE OF WISCONSIN : CIRCUIT COURT : KENOSHA COUNTY

VILLAGE OF BRISTOL,
19801 83rd Street
Bristol, WI 53104,

Case No.

Plaintiff,

Case Code: 30405, 30704

vs.

CHRISTINE BARASSI-JACKSON,
[REDACTED]
Bristol, WI 53104

QUENTIN JACKSON
[REDACTED]
Bristol, WI 53104,

Defendants.

COMPLAINT

Plaintiff, the Village of Bristol, by its attorneys, Michael Best & Friedrich LLP, by John D. Finerty, Jr. and Adam J. Lowe, as its Complaint against the Defendants, alleges as follows:

INTRODUCTION

This is a municipal ordinance enforcement action seeking to enforce and enjoin violations of the Village of Bristol's Construction Site Erosion Control Ordinance. The Jacksons, after the Village served a "stop-work" order, have dumped truckloads of fill on their property without a permit. On September 1, 2023 alone, the Jacksons have dumped at least six (6) dump-truckloads of fill. Their unauthorized filling has affected stormwater runoff and damaged, and threatens to further damage, adjoining properties. The Village seeks a preliminary injunction and per diem penalties of up to \$500 per day, plus the cost of prosecution.

PARTIES

1. The Village of Bristol (the "Village") is a Wisconsin municipal corporation with its principal place of business located at [REDACTED] Street, Bristol, Wisconsin.

2. Christine Barassi-Jackson ("Ms. Jackson") is an individual citizen of the State of Wisconsin with her permanent residence located at [REDACTED] Bristol, Wisconsin 53104.

3. Quentin Jackson ("Mr. Jackson" or when referenced with Ms. Jackson, the "Jacksons" or the "Defendants") is an individual citizen of the State of Wisconsin with his permanent residence also located at [REDACTED] Bristol, Wisconsin 53104.

GENERAL ALLEGATIONS

4. The Village realleges all prior allegations.

5. Ms. Jackson is the fee simple owner of a parcel of land within the Village of Bristol designated as tax parcel number [REDACTED] (the "Property"); Mr. Jackson is not believed to hold an ownership interest, although he exercises control over the Property.

6. Commencing in July of 2020, Mr. Jackson directed, with the full knowledge and cooperation of Ms. Jackson, that fill be placed on the Property to fill-in wetlands; while this initial fill activity was conducted pursuant to a permit, the permit has expired and/or was revoked. Since then, Mr. Jackson has caused an estimated twenty (20) dump-truckloads of fill to be placed on the Property since commencing this most recent fill activity.

7. The Village has not issued a permit for the most recent fill activity.

8. In fact, the Village has revoked all prior permits as of August 31, 2023.

9. After the Jacksons commenced fill activities, adjoining property owners have complained to the Village that, among other things, the fill activity has changed stormwater runoff patterns and has damaged or threatens to damage their properties.

10. The Village issued a Stop-Work order dated August 31, 2023, a true and correct copy of which is attached to this Complaint and labeled Exhibit A.

11. The Jacksons have failed and/or refused to abide by the Stop-Work order and continue to cause fill to be delivered to the Property without a permit.

12. The Village now seeks to enjoin any and all unauthorized fill activity conducted without a permit and requests an order requiring the Jacksons to bring Ms. Jackson's Property into compliance and restore it to the condition it was in prior to their unauthorized activity.

CLAIM FOR RELIEF

13. The Village realleges all prior allegations.

14. Village Ordinance Section 15-2-13, entitled "Enforcement," was duly enacted and remains in full force and effect and governs, among other things, land disturbing construction activity within the Village; such activity requires an erosion and settlement control plan and permit. A copy of the Enforcement Ordinance is attached for ease of reference as Exhibit B.

15. The Village has authority to enforce the Enforcement Ordinance, enjoin further violations and seek judicial remedies pursuant to Wis. Stat. §62.23(7)(f)(2).

16. The Jacksons' conduct in delivering dump-truckloads of fill to their Property without a permit has in fact disturbed the land, created erosion and diverted stormwater runoff.

17. The Jacksons are therefore in violation of Ordinance Section 15-2-13 and subject to the remedies set forth in Wis. Stat. §62.23(7)(f)(2).

RELIEF REQUESTED

THEREFORE, Plaintiff, the Village of Bristol, requests relief as follows:

1. A Preliminary Injunction;
2. A Remedial Order directing the Jacksons, jointly and severally, to restore or pay for the cost of restoring the Property to the condition it was in prior to their unauthorized fill activity and in full compliance with any and all prior permits, orders, authorizations as well as all statutes, regulations and ordinances;
3. Any and all other remedies appropriate under Wis. Stat. §62.23(7)(f)(2);
4. The cost to the Village of prosecution, including any and all attorneys' fees and costs of litigation;
5. A Permanent Injunction against any further fill activity without a permit;
6. Pre-judgment interest on any amounts awarded; and,

7. Post-judgment interest pursuant to statute.

CONCLUSION

The Village of Bristol, therefore, requests judgment in its favor and against the above-named Defendants on its Claim for Relief and any and all further relief the Court allows.

Dated this 1st day of September, 2023.

Respectfully submitted,

MICHAEL BEST & FRIEDRICH LLP

By: Electronically signed by John D. Finerty, Jr.
John D. Finerty Jr., #1018183
jdfinerty@michaelbest.com
Adam J. Lowe, #1112799
ajlowe@michaelbest.com
790 North Water Street, Suite 2500
Milwaukee, WI 53202
Telephone: 414.271.6560
Facsimile: 414.277.0656

*Attorneys For Plaintiff,
the Village of Bristol*

027959-0041135663250.v1

I



The Village of
BRISTOL
NATURALLY

August 31, 2023

RE: Stop workorder/dumping dirt and filling at your parcel [REDACTED]

Christine Barassi-Jackson and Quentin Jackson

[REDACTED]
Bristol WI 53104

Dear Mr. and Mrs. Jackson,

This letter is to inform you that you must stop dumping dirt and filling and grading activities on your parcel #37-4-121-363-0322. You are in violation of the Village of Bristol Storm water Permit that was issued to you (copy attached). That permit is revoked.

On May 5, 2022, the Village issued a violation notice indicating that culvert elevations still had not been provided, proper erosion control was not installed, additional fill had been placed beyond the 0.16 acres indicated, and that the property owner was in violation of the permit issued by the Village on August 5, 2020 because water was backing up onto the neighboring property. The property owner was given 30 days to correct the conditions. Filling without a permit is in violation of Section 13-1-46 of the Village of Bristol Ordinances.

In order to resume filling activities, you must obtain a new grading permit. This permit must include an engineered grading plan, erosion control plan, and stormwater management plan that demonstrates how the new grading activity, previous grading activity completed in excess of the prior permit or with no permit, and how the previously placed culvert impacts drainage and runoff to the subject property and upstream and downstream properties. This documentation must demonstrate conformance to Village Ordinance Section 15-3, Post-Construction Stormwater Management.

Sincerely,

Randy Kerkman
Administrator
Village of Bristol

(via sent email and regular mail)

EXHIBIT
A

Construction Site Erosion Control

15-2-12

justice may be done and the public interest secured, provided the exception or waiver shall not have the effect of nullifying the intent and purpose of these regulations, and further provided the Director of Public Works/Village Engineer shall not approve exceptions and waivers unless they shall make findings based upon the evidence presented to it that all of the following conditions are met by the petitioner:

- (1) The granting of the exception or waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;
 - (2) The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;
 - (3) Because of the location or conditions affecting the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;
 - (4) The relief sought will not materially alter the provisions of any existing regional stormwater management plan except that this document may be amended in the manner prescribed by law; and
 - (5) The granting of the exception or waiver will not result in a violation of State or Federal laws or permits.
- (b) **Conditions.** In approving exceptions or waivers, the Director of Public Works/Village Engineer may require such conditions as will in their judgment secure substantially the purposes described in this Chapter and accompanying written stormwater management and erosion control requirements.
- (c) **Procedures.** A petition for an exception or waiver shall be submitted in writing by the responsible party at the time when the development is filed for the consideration of the Director of Public Works/Village Engineer. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.

Sec. 15-2-13 Enforcement.

- (a) The Director of Public Works/Village Engineer may post a stop-work order if any of the following occurs:
- (1) Any land disturbing construction activity regulated under this Chapter is being undertaken without a permit.
 - (2) The erosion and sediment control plan is not being implemented in a good faith manner.
 - (3) The conditions of the permit are not being met.
- (b) If the responsible party does not cease activity as required in a stop-work order posted under this Section or fails to comply with the erosion and sediment control plan or permit conditions, the Director of Public Works/Village Engineer may revoke the permit.
- (c) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the Director of Public Works/Village Engineer, or if a responsible party violates a stop-work order posted under Subsection (a), the Director of Public

EXHIBIT B

- Works/Village Engineer may request the Village Attorney to obtain a cease and desist order in any court with jurisdiction.
- (d) The Village Board may retract the stop-work order issued under Subsection (a) or the permit revocation under Subsection (b).
 - (e) After posting a stop-work order under Subsection (a), the Director of Public Works/Village Engineer may issue a notice of intent to the responsible party of intent to perform work necessary to comply with this Chapter. The Village staff or contractors may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this Subsection by the Village of Bristol, plus interest at the rate authorized by the Village Board, shall be billed to the responsible party or recovered from the surety bond or irrevocable letter of credit. In the event a responsible party fails to pay the amount due, the Village Clerk shall enter the amount due on the tax rolls and collect it as a special assessment against the property pursuant to Subchapter VII of Chapter 66, Wis. Stats.
 - (f) Any person, firm, association, or corporation violating any of the provisions of this Chapter shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and the costs of prosecution for each violation. Each day that the violation exists shall constitute a separate offense.
 - (g) Compliance with the provisions of this Chapter may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

Sec. 15-2-14 Appeals.

- (a) **Village Board.** The Village Board, created pursuant to the Village of Bristol Code of Ordinances under to Chapter 61, Wis. Stats.
 - (1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Director of Public Works/Village Engineer in administering this Chapter, except for cease and desist orders under Sec. 15-2-13(c);
 - (2) Upon appeal, the Board may authorize variances from the provisions of this Chapter that are not contrary to the public interest and where owing to special conditions a literal enforcement of the Chapter will result in unnecessary hardship, and
 - (3) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (b) **Who May Appeal.** Appeals to the Village Board may be taken by any aggrieved person or by an officer, department, board, or bureau of the Village of Bristol affected by any decision of the Director of Public Works/Village Engineer.
- (c) **Court Action.** This Section does not apply to determinations made regarding this Chapter in either municipal court (if created) or circuit court. In such circumstances the appeal

VILLAGE OF BRISTOL,

19801 83RD Street

Bristol, WI 53104,

Plaintiff,

vs.

CHRISTINE BARASSI-JACKSON

[REDACTED]
Bristol, WI 53104,

QUENTIN JACKSON

[REDACTED]
Bristol, WI 53104

Defendants.

Case No 2023cv000878

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FILED

SEP 22 2023

**KENOSHA COUNTY
CLERK OF CIRCUIT COURT**

ANSWER

Defendants, Christine Barassi-Jackson and Quentin Jackson respond to the allegation made by the village of Bristol by its attorneys as follows:

INTRODUCTION

Defendants have been subject to a years-long pattern of racially motivated harassment by the Village of Bristol with the intent to interfere with the use and enjoyment of legally owned property. The Village has continually attempted to exert control over what is a civil matter between two neighboring landowners. In doing so the Village continues to act unlawfully and with racial animus and this most recent filing by the Village is unjustified and retaliatory in nature.

PARTIES

1. Christine Barassi-Jackson is a married, individual citizen of the State of Wisconsin with her permanent residence located at [REDACTED] Bristol, Wisconsin 53104.
1. Quentin Jackson is a married, individual citizen of the State of Wisconsin with his permanent residence located at [REDACTED] Bristol, Wisconsin 53104.
2. The Village of Bristol (the "Village") is a Wisconsin municipal corporation with its principal place of business located at [REDACTED] Bristol, Wisconsin.

GENERAL ALLEGATIONS

3. In response to plaintiff's para. 4 the defendants deny all allegations in the complaint.
4. In response to plaintiff's para. 5 the defendants note they are married and as per WIS.STATS. Chapter 766.31 (1-3) the property referenced in the complaint is marital property and therefore owned jointly by the defendants.
5. In response to plaintiff's para. 6 the defendants deny this allegation.
6. In response to plaintiff's para. 7 the defendants note that permits for all work in areas of a wetland, or wetland impact area, are issued by the Department of Natural Resources (DNR) only.
7. In response to plaintiff's para. 8 the defendants acknowledge receiving such notice.
8. In response to plaintiff's para. 9 the defendants deny the allegations reported to have been made to the village.
9. In response to plaintiff's para. 10 the defendants acknowledge receiving such notice.
10. In response to plaintiff's para. 11 the defendants deny this allegation.
11. In response to plaintiff's para. 12 the defendants deny having conducted any non-permitted fill activity on their property.

CLAIM FOR RELIEF

12. The Defendants restate all prior responses to allegations.
13. The Village Ordinance Section 15-2-13, entitled "Enforcement" was applied to the defendants and enforced unlawfully by the Village.
14. The Village does not, as a matter of law, have standing to enforce the Enforcement Ordinance, enjoin further violations or seek judicial remedies in relation to the allegations made in this complaint. The use of the area of land in question with regard to wetlands, need to provide fill to avoid flooding, etc. is governed solely by the Wisconsin Department of Natural Resources, and the Defendants have obtained all necessary engineering studies and other approvals.
15. The Defendants conducted all fill activities in accordance with issued permits and with the approval of the governing authority.
16. The Defendants are therefore not in violation of Ordinance Section 15-2-13.

RELIEF REQUESTED

THEREFORE, Defendants, Mr. and Mrs. Jackson, request relief as follows:

17. The Defendants request that the court issue a permanent Injunction against the Plaintiff, ordering the Village of Bristol and all persons acting with respect thereof to cease and desist all attempts to interfere with the Defendants' lawful use of their property.
18. The Defendants further request a monetary award of \$10,000 to compensate the Defendants for the years' long efforts by the Village and its representatives to interfere with the Defendants' lawful use of the property.

CONCLUSION

The Defendants, therefore, request judgment in their favor and against the above-named Plaintiffs on its Claim for Relief and all further relief the Court allows.

Dated this 20th day of September 2023.

Respectfully Submitted,



Christine Barassi-Jackson

[Redacted]

Bristol, WI 53104

Defendant



Quentin Jackson

[Redacted]

Bristol, WI 53104

Defendant

Kenosha County Eye