

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF OLMSTED

THIRD JUDICIAL DISTRICT

State of Minnesota,

Court File No.:

by Leal G. Segura and Patrick Adamson,

Case Type: Civil Other/Miscellaneous

Relators,

COMPLAINT

vs.

International Properties LLC, Steven L.
Connelly, and Aderonke Mordi,

Defendants.

Relators, for their Complaint against Defendants, state and allege as follows:**PARTIES, VENUE, AND JURISDICTION**

1. Relator Leal Segura is an individual residing at 810 60th Ave Southwest, Rochester, MN 55902.
2. Relator Patrick Adamson is an individual residing at 1010 60th Ave SW, Rochester, MN 55902.
3. Relators assert their rights in the name of the State of Minnesota pursuant to Minn. Stat. § 116B.03, subd. 1.
4. On information and belief, Defendant Steven L. Connelly is an individual residing at 7232 10th St SW, Byron, MN 55920.
5. On information and belief, Defendant Aderonke Mordi is an individual residing at 3900 Fairway Place NW Suite 1, Rochester, MN 55901.

6. Defendant International Properties LLC is a Minnesota limited liability corporation with a registered office address of 3261 19th Street NW, Rochester, MN 55901.
7. Venue lies in this Court pursuant to Minn. Stat. § 116B.03, subd. 4, as Olmsted County is where the conduct that has caused or is likely to cause pollution, impairment, or destruction has or will occur.
8. The Court has jurisdiction over this civil action pursuant to Minn. Stat. § 116B.03.

FACTUAL BACKGROUND

9. Relator Segura owns real property legally described as the North ½ of the West 30 acres of the East ½ of the SW ¼ of Section 6, Township 106N, Range 14W, Olmsted County Minnesota (“Segura Property”).
10. Relator Adamson owns the property legally described as The North 7.5 acres of the South 15 acres of the West 30 acres of the East ½ of Section 6, Township 106N Range 14W, Olmsted County Minnesota (“Adamson Property”).
11. Defendant Connelly owns the property legally described as The East 30 acres of the West 60 acres of the East ½ of the SW ¼ of Section 6, Township 106N, Range 14W, Olmsted County Minnesota (“Connelly Property”).
12. The Segura Property abuts the Connelly Property sharing its easterly property line with the westerly line of the Connelly Property. The Segura Property abuts the Adamson Property sharing its southerly property line with the northerly property line of the Adamson Property

13. Attached hereto as **Exhibit A** is a satellite image generally depicting the Segura Property, the Adamson Property and the Connelly Property.
14. Defendants Connelly and Defendant Aderonke Mordi presented a General Development Plan #O2021-001GDP (“GDP”) to Olmsted County and Rochester Township. Defendants also named Defendant International Properties LLC as an applicant. The General Development Plan calls for the Development of 10 single family residential lots on the Connelly Property. The road providing access to the development is situated on the westerly line of the Connelly Property proximate to the Adamson and Segura Properties.
15. The necessary rezoning, general development plan and permits have not been approved by the County or the Township.
16. On information and belief, notwithstanding the lack of approval, Defendants have retained Hathaway Tree Service to begin clearing trees currently situated in the path of the proposed road providing access to the planned lots.
17. An extensive heron rookery exists on the parties’ land. Herons have constructed dozens of the nests in trees on all three properties.
18. Defendants’ proposed access road would necessarily destroy the rookery and significantly disrupt the habitat of, if not displace, the heron population, depriving the Rochester area of a unique natural resource. Herons have reused their nests on the parties’ properties for years. On information and belief, the eggs or fledglings currently in the nests will be killed or abandoned if their rookery is disturbed by Defendants’ imminent tree removal activity.

19. The heron rookery on the parties' land is a protected natural resource under Minn. Stat. § 116B.02, subd. 4. Heron rookeries are rare resources, especially near urban centers. In light of this fact, the State of Minnesota has established several scientific and natural areas ("SNA") dedicated to the preservation of heron rookeries.
20. Without the relief requested enjoining Defendants from cutting trees until further order of the Court, permanent, materially adverse damage to the heron rookery on all three properties will occur.

COUNT I—MINNESOTA ENVIRONMENTAL RIGHTS ACT

21. All allegations are incorporated herein by reference.
22. The Minnesota Environmental Rights Act provides that any person residing in Minnesota may bring a civil action for declaratory or equitable relief in the name of the state of Minnesota "for the protection of the air, water, land, or other natural resources located within the state . . . from pollution, impairment, or destruction." Minn. Stat. § 116B.03, subd. 1.
23. The heron rookery on the parties' land is a protected natural resource under Minn. Stat. § 116B.02, subd. 4.
24. "Pollution, impairment or destruction," is defined as "any conduct by any person," which "materially adversely affects or is likely to materially adversely affect the environment." Minn. Stat. § 116B.02, subd. 5.
25. On information and belief, Defendants have already, or will imminently, begin tree removal operations that will impair or destroy the rookery. The clearing of trees

for an access road will materially and adversely affect the heron rookery. Defendants' proposed access road would necessarily destroy the rookery and significantly disrupt the habitat of, if not displace, the heron population, depriving the Rochester area of a unique natural resource. Herons have reused their nests on the parties' properties for at least 20 years, and likely longer. On information and belief, the eggs or fledglings currently in the nests will be killed or abandoned if their rookery is disturbed by Defendants' imminent tree removal activity.

26. Relators are entitled to declaratory and injunctive relief pursuant to Minn. Stat. § 116B.07, which provides: "The court may grant declaratory relief, temporary and permanent equitable relief, or may impose such conditions upon a party as are necessary or appropriate to protect the air, water, land or other natural resources located within the state from pollution, impairment, or destruction."

PRAYER FOR RELIEF

WHEREFORE, Relators request that the Court enter Judgment against Defendants as follows:

- i) declaring the heron rookery as a natural resource as contemplated by the Minnesota Environmental Rights Act;
- ii) enjoining Defendants and any person or entity acting on behalf of Defendants from, in any manner whatsoever, disturbing the heron rookery situated on the property of the Relators or Defendants or to remove any trees within one thousand (1,000) feet of any nest situated in the rookery;
- iii) awarding Relators costs, disbursements, and attorney's fees; and
- iv) granting such other and further relief as the Court deems just and equitable.

Dated: March 20, 2021

OHLY LAW OFFICE

/s/Travis M. Ohly
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Date: March 20, 2021.

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ACKNOWLEDGMENT

The undersigned hereby acknowledges that costs, disbursements, and reasonable attorney and witness fees may be awarded pursuant to Minn. Stat. § 549.211, to the party against whom the allegations in this pleading are asserted.

Date: March 20, 2021

OHLY LAW OFFICE

/s/ Travis M. Ohly

Travis M. Ohly (#347176)

EXHIBIT A

