

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

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SHARON STERN,

Plaintiff,

-against-

**VERIFIED
COMPLAINT**

Index No.:

**YESHIVA TIFERET TORAH, ARASH N. HAKAKIAN,
SEPHARDIC HERITAGE CENTER CHARITABLE TRUST,
THE VILLAGE OF AIRMONT, THE BOARD OF TRUSTEES
OF THE VILLAGE OF AIRMONT,
NATHAN BUBEL, in his capacity as the Mayor of the Village
of Airmont, and LOUIS ZUMMO, in his capacity as the
Building Inspector for the Village of Airmont**

Defendants.

-----X

Plaintiff, complaining of Defendants, alleges:

1. At all times hereinafter mentioned, Plaintiff was and still is an individual who resides at 8 Fosse Court, Airmont NY 10952.¹
2. At all times hereinafter mentioned, Defendant YESHIVA TIFERET TORAH (“YTT”) is, upon information and belief, a religious entity that is operating a religious school and dormitory upon certain properties known as 2 and 3 Fosse Court, Airmont NY 10952 (together “Subject Properties”), which properties are located in the R-35 zone in the Village of Airmont.
3. At all times hereinafter mentioned, Defendant ARASH N. HAKAKIAN (“Defendant Hakakian”) is, upon information and belief, the owner in fee of 3 Fosse Court, Airmont NY 10952 and is the current *Rosh HaYeshiva*² (Head of Yeshiva) of YTT.

¹ Plaintiff is a member of the Orthodox Jewish community. Please note that Plaintiff has obtained permission from local community rabbis to file the instant action against Defendants.

4. At all times hereinafter mentioned, Defendant SEPHARDIC HERITAGE CENTER CHARITABLE TRUST (“Defendant Sephardic Trust”) is, upon information and belief, a religious entity that is the owner in fee of 2 Fosse Court, Airmont NY 10952.

5. At all times hereinafter mentioned, Defendant VILLAGE OF AIRMONT (“Village”) was and is a municipal corporation situated in the Town of Ramapo, County of Rockland, and State of New York.

6. At all times hereinafter mentioned, Defendant THE BOARD OF TRUSTEES OF THE VILLAGE OF AIRMONT (“Village Board”) was and is the elected legislative body, consisting of a mayor and four trustees, for the Village.

7. At all times hereinafter mentioned, Defendant NATHAN BUBEL (“Defendant Bubel”) was and is the mayor of the Village.

8. At all times hereinafter mentioned, Defendant LOUIS ZUMMO (“Defendant Zummo”) was and is the building inspector for the Village.

BACKGROUND

A. 2 Fosse Court

9. 2 Fosse Court was purchased by Sephardic Heritage Center Charitable Trust on or about November 4, 2022.

10. Conveyance documents indicate that the property class is listed as “210,” which code is designated by the State of New York for “one-family year-round residences.”

11. Same is consistent with the Certificates of Occupancy maintained the Building Department files, which states 2 Fosse Court is a “one family dwelling with 2 car garage and deck,” subsequently improved by “alteration of basement with addition of a full bathroom,

² Lit. “Head of Yeshiva,” i.e., the head of the religious school at issue.

playroom, open rec- room, and study to an existing one family dwelling.” Copies of the conveyance documents and Certificates of Occupancy are annexed hereto as Exhibits “1” and “2,” respectively.

12. After the purchase of 2 Fosse Court by its current owner, Village Building Department records indicate that a building permit was granted on or about February 8, 2023,³ described as follows:

“Entire house gutted and structural walls removed. Plans supplied to put in playroom, two guest rooms and three bathrooms in basement. Open livingroom (sic) and dinning (sic) room, kitchen 2 half baths and study on main floor. 4 bedrooms and kitchen on second floor with three full baths. Full sprinkler system installed for possible future use as residential HOW.”

13. A hydraulic summary obtained from the Village Building Department describes water supply testing for a “House of Worship and Accessory Apartment.” Copies of the February 8, 2023 building permit and hydraulic summary are annexed hereto as Exhibits “3” and “4,” respectively.

14. A search of the Building Department files reveals that 2 Fosse Court is not approved for any use other than as a single-family residence.

15. Although “schools of general or religious instruction” and “educational institutions with accessory housing” are permitted in the R-35 zone subject to Special Use Permit, Building Department files, as well as publicly available records on-line, reveal that no application has been made for conversion of 2 Fosse Court to either special use.

³ Said permit replaced an identical permit granted to the prior owner of the Subject Properties, to wit: Congregation Yeshiva of Telshe Alumni, Inc.

16. Notwithstanding the above, YTT openly admits that the Subject Properties are currently used as a school and that YTT has commenced conversion of one of the Subject Properties into a dormitory for their students. See, e.g., <https://www.tiferet.us/home>.⁴

B. 3 Fosse Court

17. 3 Fosse Court was purchased by Defendant Hakakian by deed filed July 21, 2022 at instrument number 2022-00026328.

18. The current Certificate of Occupancy on file for 3 Fosse Court states that this property is a “one family dwelling with 2 car garage, deck and fireplace.”

19. A printout from the Rockland County Clerk evidencing the conveyance referenced above, and the Certificate of Occupancy for 3 Fosse Court are annexed hereto as Exhibits “5” and “6,” respectively.

20. Once again, a search of the Building Department files reveals that 3 Fosse Court is not approved for any use other than as a single-family residence. Although “schools of general or religious instruction” and “educational institutions with accessory housing” are permitted in the R-35 zone subject to Special Use Permit, Building Department files, as well as publicly available records on-line, reveal that no application has been made for conversion of 3 Fosse Court to either special use.

21. Notwithstanding the above, YTT openly admits that the Subject Properties are currently used as a school and that YTT has commenced conversion of one of the Subject Properties into a dormitory for their students. See, e.g., <https://www.tiferet.us/home>.⁵

⁴ The admission that the Subject Properties are currently in use as a school and are being converted to a dormitory are found at multiple URLs, which will be provided upon request.

⁵ See fn 3.

C. Village Code

22. Village zoning code §210-12 states that “Any use indicated as special permit use shall be deemed prohibited unless approved in a manner specified by this chapter.”

23. Village zoning code §210-74 through §210-79 sets forth the way application is made to the Village for a special permit use, consisting of submission of an informal plan to the CDRC, review of the informal plan by the Planning Board, formal review of the site development plan by the Planning Board, etc.

24. As set forth in detail above, a review of the Building Department files and on-line public resources reveal that a special permit for conversion of the Subject Properties from single-family dwellings to a school of religious instruction was neither applied for nor obtained. Therefore, the use of the Subject Properties as a school of religious instruction is prohibited by Village law under §210-12.

25. Village zoning code §210-72(A) states, in relevant part, as follows:

“No site development plan approval shall be required for a one-family detached residence on a single lot or for additions, alterations or structures accessory thereto. *All other principal uses and all special permit and accessory uses shall require site development plan approval prior to the issuance of a building permit. . . . No certificate of occupancy or certificate of use shall be issued unless all requirements of the site development plan approval have been fully met. No lot or parcel of land shall be used except in conformity with an approved site development plan, when required.*”

Emphasis added.

26. As set forth in detail above, a review of the Building Department files and on-line public resources reveal no site development plan for conversion of the Subject Properties from single-family dwellings to a school of religious instruction.

27. Therefore, the use of the Subject Properties as a school of religious instruction is also prohibited by Village law under §210-72(A).

D. New York State Law

28. New York State law requires that all children between the ages of six and sixteen attend school. See NY Education Law §2. The law further requires that all such children “may attend at a public school or elsewhere.” *Id. at §3204(1)*. Nevertheless, the requirements of §3204 “shall apply to such a minor, irrespective of the place of instruction.” *Id.* New York State law requires that:

“To be recognized as a school in New York State, new religious and independent schools must obtain incorporation, verify that they are located in a safe, educationally appropriate environment, and have their local public school district certify that they are educationally equivalent to a public school.”

<https://www.nysed.gov/nonpublic-schools/school-incorporation-guidance>.⁶

29. Application for incorporation requires, among other things, “[a] copy of the certificate(s) of occupancy . . . for *each* building or location where instructional activities will occur, showing approval for educational use . . .” As the Subject Properties do not have certificates of occupancy showing approval for educational use, YTT is not a legal school under New York State law.

E. Correspondence to Village of Airmont Building Department

30. The undersigned, by detailed correspondence dated November 28, 2023 (“11/28/23 Correspondence”), the undersigned advised the Village Building Department of the above-referenced circumstances. Same was received by the Village Building Department on

⁶ It should be noted that “incorporation” as defined in the Education Law is not equivalent to incorporation as a not-for-profit or business incorporation under the NYS Business Corporations Law or Not-For-Profit Corporations Law.

Said illegal use poses an immediate threat to the health, safety, and welfare of YTT students, as well as neighboring property owners.

36. Given the above, Defendants YTT, Hakakian, and Sephardic Trust are liable to Plaintiff for private nuisance.

FOR A SECOND CAUSE OF ACTION

37. Plaintiff repeats, realleges and reiterates each and every allegation set forth herein as though fully set forth at length.

38. Given the use of the Subject Properties as an illegal school and dormitory, Plaintiff, who resides within 500 feet of said properties, has been subjected to noise, parking issues, crowding, garbage, and other detrimental environmental issues well in excess of those that would be engendered by the current, legal use of said properties as single family residences. Said illegal use poses an immediate threat to the health, safety, and welfare of YTT students, as well as neighboring property owners.

39. Given the above, Defendants YTT, Hakakian, and Sephardic Trust are liable to Plaintiff for public nuisance.

AS AND FOR A THIRD CAUSE OF ACTION

40. Plaintiff repeats, realleges and reiterates each and every allegation set forth herein as though fully set forth at length.

41. Given the above, a permanent injunction should be imposed, enjoining Defendants YTT, Hakakian, and Sephardic Trust from: (a) continuing the unlawful use of the Subject Properties; and (b) the continuance of any activities constituting a public or private nuisance.






ATTORNEY VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF SULLIVAN)

STEVEN N. MOGEL being duly sworn, deposes and says that I am counsel to the Plaintiff in this action, SHARON STERN, and that I have read the attached Verified Complaint herein and all the contents thereof are true to my knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true. The grounds of my information and the sources of my belief are conversations with my client and review of her records and files. I am making this affidavit pursuant to CPLR §3020(d)(3) since the defendants do not reside in the same county where I maintain my office.


STEVEN N. MOGEL

Sworn to before me this 1st
day of March, 2024.


NOTARY PUBLIC

SHAYNA KOZAK
Notary Public, State of New York
NYS Reg. No. 01KO6341305
Qualified in Sullivan County
Commission Expires May 2, 2024