

RETURN DATE: DECEMBER 27, 2016

MIDDLEBURY LAND TRUST, INC.	:	SUPERIOR COURT
Plaintiff,	:	J.D. OF WATERBURY
vs.	:	AT WATERBURY
ALBERT C. BASHAWATY	:	DECEMBER 7, 2016
Defendant.	:	

COMPLAINT

1. Plaintiff Middlebury Land Trust, Inc. (the “Land Trust”) is a Connecticut non-profit membership corporation and land conservation organization.

2. The Land Trust was organized in 1969 by concerned residents of Middlebury, Connecticut to help preserve the town's natural areas for future generations.

3. The primary objective of the Land Trust is to acquire and preserve land or conservation easements by gift or purchase to be held in perpetuity as open space in order to maintain and preserve a healthy, attractive and balanced environment for living in the Town of Middlebury.

4. Defendant Albert C. Bashawaty (“Bashawaty”) owns real property and a home located at 177 Falcon Crest Road in Middlebury, Connecticut (hereinafter the “Bashawaty Property”).

5. Bashawaty acquired the Bashawaty Property on or about August 26, 1999.
6. At the time Bashawaty acquired the Bashawaty Property, its boundaries were set forth in the deed and clearly demarcated on a subdivision map as Lot 33 Falcon Crest - Sec. 2, and as comprised of 7.16 acres.
7. The boundaries of the Bashawaty Property relative to adjoining properties also are clearly demarcated on the Town of Middlebury Tax Assessor's Map 5-10.
8. At various times, Bashawaty constructed various improvements at the Bashawaty Falcon Crest Property, which required knowledge of the Bashawaty Property boundaries and included commissioning site plans or surveys of the Bashawaty Property.
9. The Bashawaty Property is contiguous to protected open space land and wetlands owned and protected by the Land Trust.
10. At all relevant times, the Land Trust owned, *inter alia*, neighboring lots numbered by the Middlebury Tax Assessor as lots 009, 052, and 053a, otherwise known as the Griffith Tract and the Robert Clark Tract, each of which is clearly demarcated by the Town of Middlebury Tax Assessor's Map.
11. Bashawaty unlawfully and without license or permission entered the Land Trust's property and has trespassed and encroached onto the Land Trust's real property.
12. Specifically, the following acts were done on the Land Trust's property:
 - a. trees and other vegetation were cleared;

- b. the earth was disturbed and moved;
- c. a lawn was cultivated and maintained;
- d. irrigation was installed;
- e. electric lines were installed;
- f. an artificial "putting green" and "sand traps" were constructed;
- g. the wetlands therein were disturbed and filled;
- h. a propane tank and lines were installed on the Land Trust's property; and
- i. a chain link fence was installed on the Land Trust's property.

13. Bashawaty has regularly continued unlawfully trespassing and encroaching and using the Land Trust's property.

14. In May of 2013, the Land Trust erected a barrier across the encroachment in furtherance of its mission.

15. Despite the barrier erected by the Land Trust, Bashawaty continues to trespass and encroach on the Land Trust's property, including by unlawfully maintaining a propane tank and lines and a chain link fence on the Land Trust's property.

16. Bashawaty's trespass and encroachment and unlawful actions have caused, and continue to cause, the Land Trust significant damages.

17. The Land Trust has incurred and will in the future incur significant expense to remediate the damage and restore its property.

COUNT ONE
UNLAWFUL ENCROACHMENT TO OPEN SPACE LAND
[General Statutes § 52-560a(3)]

1-17. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 17 as if fully set forth herein.

18. The Land Trust's property is protected under General Statutes § 52-560a, *et seq.*

19. Bashawaty's unlawful behavior as described above, has encroached on the Land Trust's property without permission, in violation of General Statutes § 52-560a.

20. The Land Trust has suffered damage and is entitled to relief as provided for under General Statutes § 52-560a, including restoration costs, attorney's fees, costs, and injunctive and equitable relief, as well as multiple damages and statutory damages.

COUNT TWO
TRESPASS ON LAND

1-17. Plaintiff realleges and incorporates by reference paragraphs 1 through 17 of Count One as if fully set forth herein as part of this Count Two.

18. At all relevant times hereto, the plaintiff was in possession of a certain piece of land situated in the Town of Middlebury, Connecticut known as the Griffith Tract and the Robert Clark tract.

19. Beginning in or about the year of 2002, Bashawaty unlawfully entered the land, and, without license of the plaintiff, constructed an artificial putting green with sand traps,

removed vegetation, disturbed the protected wetlands and otherwise trespassed and encroached as alleged herein.

20 The Land Trust has suffered damage and has incurred and will in the future incur significant expense to remediate the damage and restore its property.

21. The Land Trust is entitled to relief based upon such damage and Bashawaty's trespass and encroachment as provided by law.

COUNT THREE
UNLAWFUL TREE AND SHRUBBERY REMOVAL
[Pursuant to General Statutes § 52-560]

1-17. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 17 of Count One as if fully set forth herein as part of this Count Three.

18. Bashawaty unlawfully removed trees and shrubbery from the Land Trust's property or aided others in their removal of trees and shrubbery from the Land Trust's property.

19. The Land Trust suffered resultant damages and is entitled to relief as provided by General Statutes § 52-560.

COUNT FOUR
UNLAWFUL TREE AND SHRUBBERY REMOVAL
[Common Law]

1-17. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 17 of Count One as if fully set forth herein as part of this Count Four.

18. Bashawaty unlawfully removed trees and shrubbery from the Land Trust's property or aided others in their removal of trees and shrubbery from the Land Trust's property.

19. The Land Trust suffered resultant damages and is entitled to relief as provided by law.

COUNT FIVE
REQUEST FOR DECLARATORY AND EQUITABLE RELIEF AGAINST
UNREASONABLE POLLUTION

[Pursuant to General Statutes § 22a-16]

1-17. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 17 of Count One as if fully set forth herein as part of this Count Five.

18. The Land Trust, per its mission, is bringing this action for the protection of the public trust in the air, water and other natural resources of the state from unreasonable pollution, impairment or destruction.

19. Bashawaty's repeated encroachments, alterations, constructions and trespasses onto the Land Trust's protected wetlands are objectively unreasonable.

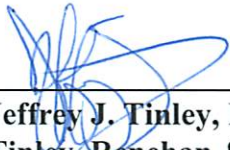
20. Furthermore, Bashawaty's numerous surveys, permits, and renovations of his property after its purchase strongly imply that he had actual knowledge of his egregiously unlawful acts at the time of their commencement.

WHEREFORE, the plaintiff respectfully requests judgment against the defendant, along with any remedies lawfully available, including, but not limited to:

- a. Restoration of the land to its condition prior to any unlawful encroachment, and reasonable management costs thereof;
- b. Quintuple restoration costs and statutory damages, pursuant to General Statutes § 52-560a(d);
- c. Money damages;
- d. Injunctive relief against future encroachment or trespass;
- e. Attorneys fees and costs; and,
- f. Such other and further declaratory, injunctive, equitable, or punitive relief, as per the Court's discretion.

**THE PLAINTIFF,
MIDDLEBURY LAND TRUST, INC.,**

BY: _____


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AMOUNT IN CONTROVERSY

The amount in demand, exclusive of interest and costs, is in excess of FIFTEEN THOUSAND DOLLARS (\$15,000.00).

**THE PLAINTIFF,
MIDDLEBURY LAND TRUST, INC.,**

BY: 

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