

**ONTARIO
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE)
) FRIDAY, THE 3RD DAY
)
MR JUSTICE J. HENDERSON) OF APRIL, 2009

B E T W E E N:

JOHN VOORTMAN & ASSOCIATES LIMITED

Plaintiff

- and -

THE HAUDENOSAUNEE CONFEDERACY CHIEFS COUNCIL,
Members of THE HAUDENOSAUNEE MEN'S FIRE OF GRAND RIVER,
or any agent or person acting under their instructions, DICK HILL, JOHN DOE,
JANE DOE and other persons unknown

Defendants

ORDER

THIS MOTION made with notice by the Plaintiff for a declaration that the Plaintiff has title to, and is the sole owner of, property known as 68A Main Street North, Hagersville, Ontario; for an interim and interlocutory Order to restrain the Defendants until the trial or other final disposition of this action from trespassing or otherwise interfering with the property known as 68A Main Street North, Hagersville, Ontario, together with other related relief, was heard this day at 45 Main Street East, Hamilton, Ontario.

ON READING the Notice of Motion, the Affidavit of John Voortman sworn January 12, 2009, and the exhibits attached thereto, the Affidavit of John Voortman Jr. sworn January 12, 2009, and the exhibits attached thereto, the Affidavit of Shane van Engen, sworn February 10, 2009, and the exhibits attached thereto, the Affidavit of John Voortman Jr.

sworn March 26, 2009, and the exhibits attached thereto, and the materials filed by the representatives of the Haudenosaunee Men's Fire of Grand River, and on hearing the submissions of counsel for the Plaintiff and of the representatives for the Haudenosaunee Men's Fire of Grand River, the Plaintiff having undertaken to abide by any Order concerning damages that the Court may make if it ultimately determines that the granting of an interlocutory injunction and mandatory Order has caused damage to the Defendants for which the Plaintiff ought to compensate the Defendants,

1. THIS COURT ORDERS an interim and interlocutory injunction restraining the Haudenosaunee Men's Fire of Grand River ("Men's Fire") or its members, Dick Hill, and their servants, associates or agents whose identity is unknown, and John Doe and Jane Doe, whose identities are unknown, and any other person having notice of this Order (collectively "the Defendants") from:

- i. entering by any means upon the land municipally known as 68A Main Street North, Hagersville, Ontario, being more particularly described as:

PIN# 38183-0182 (LT)

Part Lot 2 in Block 42 in Registered Plan No. 905, in the village of Hagersville, as in HC260803, S/T HC260803; Haldimand County ("the Property"),

until the trial of this action or until such further Order of this court;

- ii. obstructing or interfering by any means with the use of the roadway known municipally as Main Street or Highway 6, formerly in the Village of Hagersville, now known as The Corporation of Haldimand County (the "Access Road"), or from in any way obstructing the Access Road or other roadways or access routes leading into the Property and preventing the Plaintiff or its officers, directors, employees, servants or agents, or the Plaintiff's contractors or subcontractors, or their employees, servants or agents (collectively "the Plaintiff and its contractors"), from using the Access Road or other roadways and access routes for the purposes of

entering and exiting the Property until the trial of this action or until such further Order of this court; and

- iii. from hindering, interfering with, intimidating, physically obstructing or otherwise impeding the operations of the Plaintiff and its contractors in the performance of work relating to the construction of a residential subdivision ("the subdivision") within the area encompassed by the Property, as described above, until the trial of this action or until such further Order of this court.

2. THIS COURT DECLARES THAT the Plaintiff has title to the Property and is the sole owner of the Property; that the Plaintiff has the right to exclusive possession, use and enjoyment of the Property; and that no other person may claim an interest in, exert any rights over, or claim ownership of, the Property;

3. THIS COURT ORDERS THAT this Order shall be directed to the Sheriff of Haldimand County for enforcement and this Court directs the Ontario Provincial Police (the "OPP") and police officers of the OPP to assist the Sheriff of Haldimand County in the enforcement of this Order by removing from the Access Road and access routes and from the Property the Defendants as defined herein, or any other person contravening the provisions of this Order, subject to the discretion of the police acting reasonably with respect to the timing and means of removing any such person.

4. THIS COURT ORDERS THAT the Plaintiff and its contractors may,

- i. use reasonable force to prevent any person from trespassing upon the Property, as described above, or to remove any trespasser from the Property, so long as the Plaintiff and its contractors use no more force than is necessary in the circumstances;

- ii. use reasonable force to prevent any person from obstructing the entry or egress of the Plaintiff and its contractors onto or from the Property on the access road, so long as the Plaintiff and its contractors use no more force than is necessary in the circumstances; and
- iii. use reasonable force to remove any barricade, vehicle or other property from the Property, and to remove any barricade, vehicle or other property from the points of entry and egress onto or from the Property on the access road, so long as the Plaintiff and its contractors use no more force than is necessary in the circumstances.

5. THIS COURT ORDERS THAT the Plaintiff and its contractors shall not be held liable for any damage arising from any use of reasonable force to remove property pursuant to an Order made by this Court;

6. THIS COURT ORDERS THAT notwithstanding any municipal by-law the Plaintiff and its contractors may: build and erect a temporary fence no more than 12 feet high along the entire outside edge of the Property or anywhere on the Property at the Plaintiff's sole discretion; may place a coil of barbed wire at the top of any fence erected; may retain and employ private security forces to keep trespassers off the Property and to secure the Property; and may take any other reasonable steps to prevent any person from entering upon the Property without the permission of the Plaintiff;

7. THIS COURT ORDERS THAT this Order be served by posting copies of the Order at the entrance(s) to the Property and by handing a copy of the Order to any of the Defendants who attend at the Property.

8. THIS COURT ORDERS THAT this Order shall be issued and entered by the Registrar of the Court without requiring the approval as to form and content of the Order of any self represented or unrepresented party.

9. THIS COURT ORDERS THAT the Plaintiff may make written submissions on costs within 20 days of the date of this Order. The Men's Fire shall then have 10 days to make written submissions on costs.



ENTERED AT HAMILTON
IN Book No. 224
as Document No. 144
ON: APR 03 2009
by: JS

JOHN VOORTMAN & ASSOCIATES LIMITED
Plaintiff

v.

THE HAUDENOSUANEE CONFEDERACY CHIEFS COUNCIL et al.
Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE
DIVISIONAL COURT**

Proceedings commenced at
HAMILTON, Ontario

ORDER

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