

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF PUTNAM

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Index No. to come

CARL MAURO,

Plaintiff,

-against-

**VERIFIED COMPLAINT**

FREDERIQUE HENRIOT,

Defendant.

-----X

STATE OF NEW YORK )

: ss.:

COUNTY OF PUTNAM )

COMPLAINT

1. Plaintiff Carl Mauro (hereinafter “Mauro”), by and through his attorney, Norah Hart, Esq., submits this Verified Complaint and asserts the following claims against Defendant Frederique Henriot, based upon his first-hand knowledge of the facts.

THE PARTIES

2. At all times hereinafter mentioned Plaintiff Carl Mauro owned 153 Main Street, Cold Spring, New York 10516.
3. At all times hereinafter mentioned, Defendant Frederique Henriot owned 3 Furnace Street, Cold Spring, New York 10516.

JURISDICTION AND VENUE

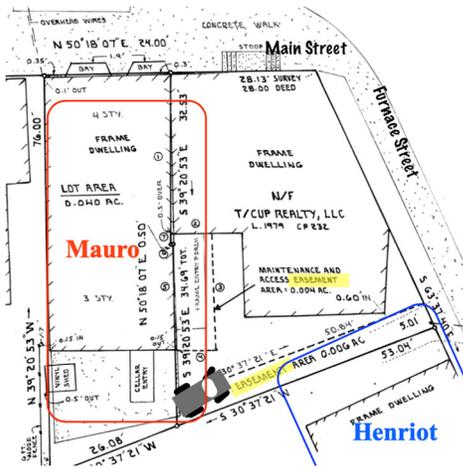
4. This Court has personal jurisdiction over the Defendant who is domiciled in Putnam County, New York, and the events and circumstances which gave rise to the action took place in New York.

#### DOCUMENTARY EVIDENCE

5. Deed. “Indenture” filed under Liber 741, page 448-451, February 17, 1977. **Exhibit A.**
6. Survey. The subject lands are shown on a survey prepared by a licensed surveyor, Charles Boolukos, P.L.S., on Map 100 of 2016, dated December 15, 2016, **Exhibit B.**
7. Annotated Survey. The Survey (same as above) marked to show: 1) the Plaintiff’s property; 2) the Defendant ‘s property; 3) the “Maintenance and Access Easement benefitting Plaintiff’s property, 4) Henriot’s unpermitted, non-conforming driveway, **Exhibit C**
8. Photographs. **Exhibit D**, ten (10) photographs of Defendant obstructing the Plaintiff’s Easement throughout 2021.

#### STATEMENT OF FACTS

8. Plaintiff Carl Mauro owns a multi-family apartment building at 153 Main Street, Cold Spring, New York 10516.
9. Defendant Frederique Henriot owns a house at 3 Furnace Street Cold Spring, New York 10516.
10. Defendant’s lot abuts Plaintiff’s lot. See Survey in Exhibits B and C.



11. Plaintiff’s Deed, Exhibit A, Deed, Liber 741, page 448-451, grants a “right of access to and egress from the above lot and Furnace Street, over, upon and across a strip of land five feet in width, the southerly side of which shall be a line drawn in continuation of the southeasterly line of the premises hereby conveyed in a northeasterly direction to Furnace Street, with full liberty at all times hereafter, of passing and repassing thereover” (hereinafter the “Easement”).
12. Plaintiff’s five foot wide Easement runs alongside Defendant’s lot. See Survey in Exhibits B and C.
13. Henriot parks her own cars and cars belonging to her short-term rental guests in a non-permitted, and non-conforming “driveway” alongside her house; the cars block Mauro’s five-foot Easement. See Photograph in Exhibits D.4 and D.5.
14. Even if it weren’t for the Easement, Henriot’s “driveway” does not, and cannot, meet the Village’s requirements for a parking space, indeed Henriot jumps the curb to reach her “driveway”. See Photograph in Exhibit D.1.

15. Photographs show Henriot blocking the Easement with cars, trucks, dirt piles, and loose gravel throughout the past year. See Exhibits D.1 through D.9
16. On or about January 2021 Henriot made the area unsafe for Mauro's tenants by dumping loose gravel in the Easement.
17. Henriot's loose gravel, being too deep and unsecured, is unsafe, difficult to move a hand truck through, and impossible for tenants to wheel trash cans to the curb at Furnace Street through, and also prevents the wheelchair-bound from accessing the rear apartment.
18. Mauro could not use the Easement on November 2, 2021, so he needed to manually haul concrete and tools to his property to repair a concrete step, because the Henriot's short-term rental guest's car was obstructing the Easement. See Photograph in Exhibit D.5.
19. Likewise, on November 24, 2021, when Mauro hired a roofer, Mauro had to haul shingles through the gravel with a hand truck because the Easement was blocked by Henriot's car. See Exhibit D.6 and D.7.
20. Henriot shows no regard whatsoever for Mauro or his tenants.
21. The Easement is a *maintenance and access* easement, it must allow Plaintiff to do maintenance and be safe for access by the tenants.
22. Mauro told Henriot to stop blocking his Easement and Henriot replied, in a letter postmarked January 30, 2021, "contact my attorney, Luke Hilpert," and "my driveway is recorded as a two car driveway with an easement with 155 Main Street" (sic), Plaintiff also stated "I have no documentation of an easement with 153 Main Street, nevertheless I have every intention to keep my car parked...within my property line, which is over eight feet wide in front of the backyard door, this leaves plenty of space for any resident of 155 and 153 Main Street

to walk out of their apartment and get to Furnace Street.”

23. Article 134-2 Village of Cold Spring Code (hereinafter “Code”) defines a parking space as nine feet by 18 feet:

“ An off-street space available for the parking of (1) motor vehicle and having an area of not less than one hundred sixty-two (162) square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto and having direct access to a street or alley; except that a driveway may be included in an R-1 district. The minimum width shall be nine (9) feet and the minimum length eighteen (18) feet.”

See Article 134-2 Village of Cold Spring Code

24. Henriot’s “driveway” is not nine feet wide, by her own admission in her January 30, 2021 letter.
25. Defendant’s lot does not contain the square footage for a parking space, but even if it did, she would not be able to use it without blocking Plaintiff’s five-foot deeded right of access.
26. Independent of the Easement violation, Henriot is parking in an illegal parking space.
27. Article 134-18.32 of the Code, Size of spaces, reads:

“One hundred sixty-two (162) square feet, with a minimum length of eighteen (18) feet and minimum width of nine (9) feet, shall be considered the minimum for one (1) parking space, exclusive of areas required for access and maneuvering.”

28. Defendant’s Short term rental operation is in violation of the Village’s new Short Term Rental Code, Article 100, for these reasons:
- a. Defendant purchased her house in January of 2021 and has not resided there for three years. Article 100-5 of the Code requires:

“Proof that the STR property has been Owner-Occupied by the person now applying for an STR permit for a **minimum of three (3) years prior** to offering the property as an STR.”

- b. Defendant does not have a conforming parking space. Article 100-4(G) of the Code requires:

“All STRs in an R-1 or I-1 zoning district will be **required** to have one (1) off-street parking space.

- c. Plaintiff and Defendant share a driveway and Plaintiff does not agree to share the Easement with Defendant’s short term rental guests. Article 100-5(13) requires:

“Any Host with a "**shared driveway**” must include, with the Host’s application for an STR Permit, a written, notarized statement from each property owner who shares a driveway with the Host stating that they **agree to sharing** the driveway with STR guests.”

29. Plaintiff seeks to quiet title under RPAPL Article 15 and seeks damages for trespass, nuisance, counsel fees, and an injunction.

#### FIRST CAUSE OF ACTION

#### DECLARATION UNDER RPAPL § 15

30. Mauro repeats and realleges each allegation heretofore as if set forth fully herein.
31. Pursuant to RPAPL § 1501 et seq., Plaintiff seeks a judicial determination that Defendant’s obstruction of Plaintiff’s Easement, as set forth herein, is unlawful and an actionable trespass.
32. Mauro seeks a permanent injunction directing Henriot to cease obstructing the Easement and remove everything she has placed in the Easement, e.g. vehicles, gravel.

#### SECOND CAUSE OF ACTION

#### TRESSPASS

33. Plaintiff repeats and realleges each allegation heretofore as if set forth fully herein.

34. Defendant knowingly enters and parks cars in Plaintiff's Easement on a daily basis, without the Plaintiff's permission, and refuses to move her car when asked to do so, and has since January of 2021.
35. Defendant's parking in the Easement is wanton, malicious, and with reckless disregard for the Plaintiff's rights.
36. Plaintiff is entitled to recover punitive damages.
37. Plaintiff has been damaged in the amount of \$8,788.00 in attorney's fees and \$285.00 in costs to date.

### THIRD CAUSE OF ACTION

#### VIOLATION OF COLD SPRING "SHORT-TERM RENTAL" LAW

38. Henriot is in violation of Article 100 Village of Cold Spring Code. See Exhibit I, Article 100 Village of Cold Spring Code.
39. Plaintiff has a private right of action to enforce the Code, pursuant to the § 100-11.D, "The imposition of penalties herein prescribed shall not preclude the Village or any person from instituting appropriate legal action or proceeding to prevent unlawful Short-Term Rental of property in violation of this Chapter, including, without limitation, civil actions for injunctive relief to immediately terminate any existing short-term rental occupancy of buildings, land or premises." See Exhibit I, page 9.
40. Mauro seeks an injunction to immediately terminate Henriot's unlawful Short-Term Rental operation.

### FOURTH CAUSE OF ACTION

PRIVATE NUISANCE

41. Plaintiff repeats and realleges each allegation heretofore as if set forth fully herein.
42. Plaintiff has a right to unobstructed access to Furnace Street.
43. The Defendant's obstruction of Plaintiff's Easement interferes with Plaintiff's right to use his "maintenance and access easement", and also prevents his tenants from accessing Furnace Street.
44. The Defendant's obstruction is intentional: Plaintiff informed Defendant of his rights under the deeded Easement, Plaintiff stated she intended to continue parking her car in the Easement, as detailed herein.
45. The Defendant's obstruction is unreasonable: Henriot blocked Plaintiff's access on November 29, 2021, as just one example, and he had to haul roofing shingles, ladders, and an air compressor, by hand from Furnace Street because Defendant was parked in what she deems is her "driveway".
46. Henriot's use of the Easement is intentional, unjustifiable, and unreasonable, constituting a private nuisance, Henriot's knowing and intentional disregard of Mauro's rights justifies an award of punitive damages in the amount of \$150,000.00.

FIFTH CAUSE OF ACTION

INJUNCTION

47. The foregoing allegations set forth above are hereby repeated and realleged.
48. Plaintiff seeks to enjoin Plaintiff from further short-term rental of Defendant's house, or the buildings, land or premises abutting Plaintiff's Easement.

49. Defendant's Short term rental operation is in violation of the Village's new Short Term Rental Code, Article 100, for these reasons Defendant purchased her house in January of 2021 and has not resided there for three years. See Article 100-5 of the Code.
50. Defendant does not have a conforming parking space, as required by Article 100-4(G) of the Code.
51. Plaintiff and Defendant share a driveway and Plaintiff does not agree to share the Easement with Defendant's short term rental guests, as required by Article 100-5(13) of the Code.

### SIXTH CAUSE OF ACTION

#### UNJUST ENRICHMENT

8. The foregoing allegations set forth above are hereby repeated and realleged.
9. Henriot has benefitted from the improper use of the Easement as overnight parking for her short term rental customers since January of 2021.
10. Mauro has never received any financial compensation from Henriot for using Plaintiff's Easement to offer overnight parking to her short term rental customers.
11. Defendant should not be allowed to enrich herself at Plaintiff's expense.
12. Plaintiff seeks disgorgement and payment to Plaintiff of all of Defendant's of ill-gotten gains received through improper use of the Easement as overnight parking for her short term rental customers since January of 2021.

### DEMAND FOR RELIEF

WHEREFORE, Plaintiff demand judgment in their favor and against Defendant as follows:

- A. Injunction immediately prohibiting Defendant's short-term rental activity;
  - B. Compensatory and punitive damages in the amount of \$150,000, plus \$9,073.75 in attorneys fees and costs;
  - C. Interest at the legal rate of 8% per annum; and
- AND** any other relief the court deems fit and proper

Dated: December 7, 2021  
Cold Spring, New York

Prepared By:



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To: Frederique Henriot  
3 Furnace Street  
Cold Spring New York 10516

#### **VERIFICATION**

I, Norah Hart, Esq. of Law Offices of Norah Hart, am an attorney duly admitted to the practice of law in the State of New York, and I hereby certify that all of the papers that I have served, filed or submitted to the Court in this action are not frivolous as defined in subsection (c) of Sec. 130-1.1 of the Rules of the Chief Administrator of the Courts.