

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION: SECOND DEPARTMENT

-----X

In the Matter of the Application of Deborah Kopald,

Petitioner,

**AFFIDAVIT**

For a Judgment Pursuant to Article 78

Docket No. 2020-02351

-against-

The Town of Highlands New York,  
David Tonneson, Deborah Tonneson, Jaidin Paisley-  
Tonneson,

Respondents.

-----X

State of New York    )  
                                  ) ss:  
County of Orange    )

David Tonneson, being duly sworn deposes and says:

1) I am over the age of 21 years and I currently reside in the Town of Highlands, New York at 35 Hemlock Street, Fort Montgomery, New York. This Affidavit is submitted in opposition to the Motion of the Petitioner brought on by Order to Show Cause dated July 20, 2020, and is signed while all in present in Orange County, New York.

2) I have reviewed the Order to Show Cause, dated July 20, 2020, as well as the Affidavit of Ms. Kopald, dated July 17, 2020, annexed thereto in support of her Motion which seeks various relief against the Town and also against my family. With respect to the allegations and claims for relief as against my family, these claims are remarkably similar to the ones that Ms. Kopald made in support of her previous Order to Show Cause before this Court in May, 2020. I am advised that Ms. Kopald spontaneously withdrew that Motion after all of the opposition papers and her reply papers had been submitted.

3) Due to the similar allegations now being made by Ms. Kopald, annexed to the opposition papers as Exhibit “A” is my prior Affidavit (“Affidavit in Opposition”, dated May 14, 2020) which consists of 11 pages and paragraphs numbered 1 through 35. I respectfully request that the Court consider my previously submitted “Affidavit in Opposition” in opposition to Ms. Kopald’s current application.

4) Ms. Kopald’s Affidavit in support of her motion, dated July 17, 2020 (which consists of 53 pages), makes numerous false and scurrilous claims against me and my family. I deny the truth of those allegations. Additionally, her numerous allegations are so general, conclusory and lacking in specificity that they are impossible to specifically refute.

5) Ms. Kopald’s alleges in her Affidavit at paragraph 7 that there is “large-scale industrial noise coming from their (Tonneson) property . . .” This is completely false. A Certificate of Occupancy was issued for my home on June 15, 2020 by the Building Department of the Town of Highlands after my compliance with all New York State and Town Code provisions. There is no large scale industrial development going on with respect to my property nor do I know of any large scale construction currently taking place, other than perhaps on Route 9W in the Town.

6) To the extent that Ms. Kopald claims in paragraph 23 of her Affirmation that there was a construction crew on my property regularly in March of 2020, I specifically deny that a crew was working on the property during the time that the Governor’s pandemic related Executive Order was in place. The Court is respectfully referred to my prior Affidavit, dated May 14, 2020, which describes the work that was being done on our property in March, April and May of 2020.

7) Ms. Kopald acknowledges at page 37 of her Affidavit that at the time our property was being developed with a modular house, her neighbor on Forest Hill Road, Mr. McCarthy, was constructing his house next door to the Kopald residence. This was a stick build house which normally generates significantly more workers coming to the site and performing their work on site thereby generating much more traffic and noise as compared to modular built homes. Ms. Kopald apparently was not bothered by this construction noise because Mr. McCarthy was not generating "C-scale noise". It would seem that Ms. Kopald does not have an objection to construction noise generally, only when it is being generated by a certain neighbor.

8) Ms. Kopald claims in paragraph 21 of her Affirmation, that on July 15, 2020 and during the week of July 6, 2020, that she heard construction noise allegedly coming from our property which disturbed her. There was no construction work taking place on my property during this time. However during the first week of July, or thereabout, my neighbor was constructing a wooden shed on his property. During that time I heard the typical noises you would expect to hear such as cutting of wood and nailing sounds. However the noise was not particularly loud, it was not disturbing and it only lasted for a short period of time until the shed was constructed.

9) I take issue and refute the baseless allegations of Ms. Kopald at pages 46 through 47 of her Affirmation which attempts to disparage me and my family.

10) Likewise at page 48 of her Affirmation she alleges that I owe the Town of Highlands in excess of 1.5 million dollars. That is an utter and complete lie. I am not indebted to the Town in any regard and certainly not for such an exorbitant sum.

11) Ms. Kopald is requesting that the Certificate of Occupancy issued to me on June 15, 2020 be withdrawn by the Town and she requests that my new home be torn down. At page 46 of her Affidavit she again urges that my house be torn down and the “land restored”.

12) At page 50 of the Kopald Affidavit she states that the basis of her complaint against me is simply for developing my property. She claims the building of my home disrupted something she refers to as the “tree barrier” which previously was interposed on my land and is located between her home and the residential developments to her south and east. As these trees were and are on my property she has no right to these trees. When my property was developed with the modular house only those trees necessary for the erection of the house and septic field and related structures were removed. Otherwise the lot remains primarily covered with trees and brush. She seems to be claiming that she has a right to keep my land undeveloped and completely tree covered because she prefers that condition.

13) Ms. Kopald’s harassment of me and my family is ongoing and continues. I attended the Zoning Board of Appeals Public Hearing on June 17, 2020 concerning her application for the same relief she seeks before this Court by the instant motion. During that hearing she gave testimony that she was intending on bringing legal action against my family. She has now done so in the matter of Canterbury Forest Corp. v. Tonneson et al. (Orange County Supreme Court). Canterbury Forest Corp. is a corporation which owns land in the Town of Highlands as well as building lots on Forest Hill Road. The principals of that corporation are the members of the Kopald family. Upon information and belief, the CEO of the corporation is Susan Kopald, the mother of Deborah Kopald who is the Petitioner in this action.

14) It is my understanding from reading the Kopald Affidavit in support of this Order to Show Cause that she intends bringing additional and further motions before this Court in

advance of her Appeal of Judge Onofry's Order of February 7, 2020. I believe she is intentionally making serial motions before this Court in order to cause maximum disruption to the lives of me and my family. It is also exceedingly costly to defend these serial motions and seemingly endless litigation against my family.

15) Ms. Kopald and Susan Kopald are both aware that my daughter Jaidin (also a named Respondent in this matter) is planning to be married to Mr. Kyle Kilner, a First Lieutenant in the U.S. Army, on Saturday, August 1, 2020. The premises and home which is the subject of this action will be their new home as they start their life together.

16) I believe that Ms. Kopald has deliberately timed this application to the Court and the commencement of the Canterbury Forest Corp. v. Tonneson action with the intention of causing maximum emotional upset to my entire family and in an attempt to spoil an otherwise joyful event. Her actions are simply vindictive and cruel.

17) It is respectfully submitted that the Court should not permit Ms. Kopald to use this Court as a vehicle of harassment against me and my family.

---

David Tonneson

**Remote Notary Pursuant to  
Executive Order 202.7**

Sworn to before me this  
27<sup>th</sup> day of July, 2020

---

Notary Public  
(present in Rockland County, NY )