

COPY

COMMONWEALTH OF MASSACHUSETTS

DUKES, SS.

SUPERIOR COURT
CIVIL ACTION

NO. 97-0026

VINEYARD CONSERVATION
SOCIETY, INC.,

Plaintiff,

v.

COMPLAINT AND JURY DEMAND

MARIA KITRAS and HAROLD
ADLER, as Trustees
of Bear Realty Trust,

Defendants.

1. Plaintiff Vineyard Conservation Society, Inc. ("VCS") is a Massachusetts charitable corporation, organized for the purpose of conserving the natural resources of the island of Martha's Vineyard, with its principal place of business off of Lambert's Cove Road, Tisbury, Massachusetts.

2. Defendant Maria A. Kitras resides in Boston, Massachusetts and is a trustee of Bear Realty Trust ("Bear Realty Trust") u/d/t dated December 9, 1994 and recorded with the Dukes County Registry of Deeds at [redacted], Page 282.

Defendant Harold Adler resides in Lincoln, Massachusetts and is a trustee of Bear Realty Trust.

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SUPERIOR COURT
APR 11 1997

Background

The Parties' Ownership Interests in Land

4. In 1995, VCS joined with Sheriff's Meadow Foundation and local officials of the Town of Gay Head to preserve a 50 acre tract of land along Moshup Trail in Gay Head, called the Moshup Trail Project ("the Project"). The land within the Project's boundaries consists of morainal dunes and heathlands, a rare habitat of which only about 2,000 acres exist worldwide. A true and accurate copy of a plan of land showing the Project's boundaries is attached hereto as Exhibit A.

5. In the last 18 months, VCS and its partners have successfully acquired 23 acres of land within the Project area, and are continuing to pursue acquisitions.

6. On or about May 30, 1996, as part of the Project, VCS acquired title to Lots 568 and 571 ("the Conservation Property"), as shown on Exhibit A hereto, by deed dated June 3, 1996 and recorded at the Dukes County Registry of Deeds at Book 678, Page 614.

7. Bear Realty Trust acquired a partial interest in Lots 178 and 711, as shown on Exhibit A, by deed recorded at the Dukes County Registry of Deeds on February 8, 1996 at Book 669, Page 716 ("the Bear Realty Property").

8. Bear Realty Trust has no recorded right to pass over the Conservation Property to access the Bear Realty Property.

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The Controversy

9. On information and belief, Bear Realty Trust intends to develop the Bear Realty Property, which is presently undeveloped, to provide for as many as seven house lots.

10. In various meetings and correspondence between participants in the Moshup Trail Project and a representative of Bear Realty Trust, James J. Decoulas, P.E., Bear Realty Trust has asserted a legal right to pass over the Conservation Land to access the Bear Realty Property.

11. VCS and other participants in the Moshup Trail Project have disputed that right, instead contending that Bear Realty Trust has no legal right to create access over fragile habitat acquired for conservation purposes.

12. On information and belief, Bear Realty Trust is continuing with its development plans and intends to use the Conservation Land as access to its property.

Count I

13. Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth herein.

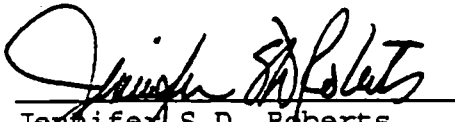
14. There is an actual controversy between the parties as to whether, and if so, where, Bear Realty Trust may pass over the Conservation Land.

WHEREFORE, plaintiff Vineyard Conservation Society, Inc. respectfully requests that this Court issue an order:

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- a. Entering judgment for the plaintiff on Count I and declaring that Bear Realty Trust has no right of access over Lots 568 or 571;
 - b. Awarding plaintiff its costs and attorney's fees; and
 - c. Granting such other and further relief as this Court deems equitable and just.

Demand for Jury Trial

Plaintiff demands a trial by jury on all claims so triable.



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Dated: April 9, 1997



Moshup

Homestead

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