

Victory for an Environmentalist Underdog

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| Client: | Lyme Land Conservation Trust |
| Industry: | Real Estate |
| Area of Law: | Environmental Litigation |
| Venue: | Superior Court of Connecticut, Judicial District of New London |
| Result: | Full restoration, damages and \$300,000 in attorneys' fees. |



“... What the Court finds is a deliberate violation of the existing restrictions. Because the violations are so extensive and so apparent, the Court’s order is that the property will be restored to the situation that existed when the defendant took title to the property.”

—Honorable Joseph Q. Koletsky, Superior Court of Connecticut,
Judicial District of New London

Pillsbury litigators achieved a victory for client Lyme Land Conservation Trust in a lawsuit against a landowner who flagrantly violated conservation restrictions granted by the predecessor owner of the property she purchased for \$4 million in 2007. In its decision, the Court required complete restoration of all 17 protected acres along the Connecticut River, and awarded the Land Trust \$650,000 in damages and attorneys’ fees.

This case had long held the attention of the land trust community nationally. The issue: Can land trusts succeed against landowners who buy substantial parcels subject to easements and then ignore those easements? With so much land to police, ensuring easement compliance and fighting easement violators can be prohibitively expensive.

The landowner here had destroyed protected areas, tearing out native shrubs, grasses and forest to create a parklike setting. She installed an irrigation system, created a beach and sprayed pesticides on natural habitat. Attempting to bury the Land Trust in litigation, the landowner brought a defamation lawsuit against the trust after it filed suit over the easement violations. She also filed numerous objections and motions, and engaged in other legal maneuvers spanning more than six years.

Recognizing the importance of the case to the state’s goal of conserving vital natural resources and the need to protect the public interest, the Connecticut Attorney General intervened. The state’s conservation statute, which permits such intervention, also allows courts to grant up to five times the actual restoration costs.

Following a six-day trial, the court not only awarded 3.5 times the court-determined restoration costs plus attorneys’ fees, it also retained jurisdiction to oversee the remediation. The court’s decision thus enabled the trust to fulfill its responsibility to easement donors, preserving the property entrusted to it.

With few such cases litigated to conclusion, the case provides a strong warning to would-be conservation easement violators, setting an important precedent nationwide.