

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

**TIMOTHY LONDREGAN;
MARKER SEVEN MARINA, LLC
NIANTIC BAY SHELLFISH FARM, LLC**

Plaintiffs,

v.

**TOWN OF EAST LYME;
MARK NICKERSON;
WILLIAM MULHOLLAND**
Defendants

Civil Action No.:

MARCH 21, 2022

COMPLAINT AND JURY DEMAND

The Plaintiffs, Timothy Londregan, Marker Seven Marina, LLC, and Niantic Bay Shellfish Farm, LLC (hereinafter sometimes referred to collectively as Londregan), as and for their Complaint against the Defendants, Town of East Lyme, Mark Nickerson, in his official capacity, and William Mulholland, in his official capacity, (hereinafter sometimes referred to as “Town”) allege as follows:

NATURE OF THE PROCEEDINGS

1. This is an action under 42 U.S.C. § 1983 for damages and other relief concerning the deprivation of Londregan’s rights under 42 U.S.C. § 1981 and the Equal Protection Clause of the Constitution of the United States and through the acts of the “Town” and its Officers and their treatment of Londregan as a “class of one” and in their selective enforcement of zoning regulations.

2. Timothy Londregan (“Londregan”) is a natural person and permanently resides at 59 Woodlawn Road in New London, Connecticut.

3. Marker Severn Marina, LLC (“MSM”) is a Connecticut limited liability company whose sole member is Timothy Londregan and whose principal place of business is 111 Main Street, Niantic, East Lyme, CT 06357.

4. Niantic Bay Shellfish Farm, LLC (“NBSF”) is a Connecticut limited liability company whose sole member is Timothy Londregan and whose principal place of business is 111 Main Street, Niantic, East Lyme, CT 06357.

5. The Town of East Lyme is a municipality organized under the laws of the State of Connecticut. Niantic is a village and census designated place within and part of the Town of East Lyme.

6. Mark Nickerson, at all times represented herein, was the First Selectman of the Town of East Lyme and was acting in his official capacity.

7. William Mulholland, at all time represented herein, was the Zoning Enforcement Officer of the Town and was acting in his official capacity.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 1334 as this action involves questions arising under the Constitution and laws of the United States and is brought to redress the deprivation, under the color of State law, of the Londregan rights as citizens of the United States.

9. This Court has personal jurisdiction over Town of East Lyme as it is a municipality located within the State of Connecticut.

10. Venue is proper in this district pursuant to 28 U.S.C. § 1391 (b) and (c) because Londregan resides in this district and the events, omissions, and property giving rise to the Londregan’s claims occurred in this district.

FACTUAL ALLEGATIONS

Background

11. Niantic consists of the southeastern corner of the Town. The southern edge of Niantic borders Niantic Bay, which opens into Long Island Sound. The land border of Niantic Bay begins on its western side at the tip of a peninsula (named “Black Point”), runs northward and eastward to a jetty (named “The Bar”) at the southernmost point of the Niantic River that continues along a bridge crossing a navigable channel between Niantic Bay and Niantic River, and continues along the most southwestern edge of Waterford. Niantic River is an estuary running northward between the Town and Waterford, with the border of each extending approximately to the middle of the Niantic River.

12. Due to its unique environmental conditions, Niantic has a national reputation for producing some of the best shellfish for consumption, and has a long history of both recreational and commercial shellfishery.

13. Londregan, 31 years old, has long been involved in the Niantic shell fishing community. In 2013, he decided to begin an aquaculture operation in the waters off of Niantic to farm and harvest shellfish such as oysters, mussels, clams, and scallops. For three years, Londregan researched farming methods, developed his own techniques, acquired equipment, and scouted farming locations. At the same time, he also researched and applied for the various requisite permits and approvals needed while searching for a base of operations.

14. Through all times described in this Complaint, NBSF aquaculture operations have utilized oysterbeds in Niantic Bay, south of the Bar and open to Long Island Sound.

15. In July of 2016, NBSF began utilizing piles under a private lease in certain waters in the Niantic River to berth its “Shell-Plex” vessel.

16. The Shell-Plex vessel is a platform boat that houses equipment to lift shellfish cages from the ocean floor and “tumble” the shellfish (which promotes growth).

17. After the Shell-Plex was moved to the piles, various private parties began to raise complaints against NBSF. Nonetheless, the Connecticut Department of Energy and Environmental Protection—the public agency tasked with regulating Connecticut’s waterways—confirmed with Londregan that these complaints were non-issues and that NBSF was acting within its rights.

18. NBSF then applied for a new lease in the Niantic River. In response, the private parties escalated their efforts against NBSF, forming the “Niantic River Advocacy Coalition” (“NRAC”). NRAC consisted of various local land owners, including some with properties being held for future development.

19. NRAC engaged in a media blitz against NBSF, hiring a public relations firm and lawyers, starting websites, distributing pamphlets, and vocally attending town meetings.

20. Upon information and belief, the Town and the Town of Waterford held private meetings with marina owners on several occasions concerning NBSF’s lease. One such marina was Boats Inc. Notably, Boats Inc. has several interests in the Niantic area and generally operates its marinas with a focus for higher-end recreational boaters.

21. Ultimately, after considerable delay, the Town and the Town of Waterford denied NBSF’s application for a new lease in the Niantic River.

22. On or about March 2, 2018, the piles in the Niantic River, where NBSF berthed and operated the Shell-Plex, broke. Rather than repair them, Waterford Harbor Management Commission illegally removed the piles.

23. Consequently, NBSF relocated its operations to 109-111 Main Street in Niantic, known as Marker Seven Marina (“Property”), through a sublease space from the then tenant/operator of the marina, Marker Seven Marina & Tackle Shop, LLC. Marker Seven Marina is located at the southern edge of the Niantic River, at the southwestern interior corner of the shore of the Niantic River and “The Bar.”

24. NBSF docked the Shell-Plex at a boat slip on the southeastern side of the main dock on the Property.

25. Upon relocation, NBSF would occasionally operate the Shell-Plex’s tumbler at its slip.

26. Boats Inc. operates a neighboring marina to the north of the Property (“Boats Inc. Marina”). The Boats Inc. Marina is operated to serve seasonal, luxury, recreational boaters. It has no commercial tenants.

27. The docks at the Property and the docks at the Boats Inc. Marina extend roughly parallel with each other into the Niantic River. The closest points between the docks are approximately 167 feet apart.

28. NBSF moved its Shell-Plex vessel from the main do to the most southeastern dock on its property, increasing the distance between the Shell-Plex and Boat’s Inc.’s marina to approximately 335 feet.

29. In 2019, Londregan agreed to take over the remaining two years of lease of the Property. Londregan formed Marker Seven Marina, LLC, which accepted an assignment of the lease from Marker Seven Marina & Tackle Shop, LLC.

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