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Brockton chicken coop still stands after \$90K legal fight

By PAT MURPHY

A Brockton homeowner remains the proud owner of a chicken coop despite the exhaustive efforts of a neighbor to have city officials and the state courts make it go away.

The coop first made its appearance in 2012 when Pierre Louis erected an 8-foot by 8-foot structure in which to raise a few chickens for his kids.

An Appeals Court panel in an unpublished decision recently upheld Superior Court Judge Elaine M. Buckley's June 2021 judgment in favor of defendant Louis on neighbor Joseph Sinkiewicz's claims for breach of quiet enjoyment and privacy, nuisance, trespass, negligence, and intentional infliction of emotional distress.

In its Nov. 22 per curiam decision in *Sinkiewicz v. Louis*, the three-judge panel found no reason to disturb the findings of fact and conclusions of law entered by Buckley following a 10-day bench trial. In particular, the panel noted the lower judge's findings that the Clemens Avenue coop was 300 feet away from Sinkiewicz's house.

The panel further noted that, because of the local topography, the coop could not even be seen from the plaintiff's backyard patio.

"In her detailed factual findings, the judge explained her reasoning for not finding the plaintiff, his companion, or his weekly maintenance worker wholly credible," the panel wrote. "While the judge credited the plaintiff's testimony in part, in that 'some odors could develop from the animal feces,' she credited the defendant's testimony, supported by the city employee's testimony, that the defendant took measures to mitigate any odor."

Louis prevailed despite the fact that he wasn't represented by counsel on appeal and never bothered to file a brief.



Nicole M. Bluefort

The defendant's trial counsel, Nicole M. Bluefort of Lynn, explains that mounting legal costs prevented her client from hiring an attorney for the appeal.



TOP: The defendant's chicken coop
BOTTOM: Defendant Pierre Louis' flock

"After a 10-day trial and years of litigation, it wasn't affordable," she says.

At the lower court, Buckley had denied the defendant's motion for \$38,796 in attorneys' fees. Meanwhile, Sinkiewicz had requested \$49,280 in legal fees on any judgment in his favor.

According to Bluefort, her client should have been awarded costs.

"The plaintiff clearly did not have a case at all," she says. "Where are the consequences for this? This is a level of harassment!"

Sinkiewicz's lawyer, Albert E. Grady of Brockton, did not respond to a request for comment.

According to court records, the original chicken coop sat about 25 feet from the boundary line of the southeast corner of Sinkiewicz's three-acre wooded lot off North Carey Street.

While walking his boundary line one day, Sinkiewicz observed Louis building the coop and asked whether he had a permit. Louis, an immigrant from Haiti, replied that he did not.

In 2016, Louis decided to build a new chicken coop on the same spot. The new structure was approximately three times the size of the old coop, bringing it to within about 20 feet of Sinkiewicz's property line.

He also added ducks, guinea hens, turkeys and more chickens to his existing flock.

The expansion proved to be the proverbial straw that broke the camel's back.

Sinkiewicz claimed that the birds were noisy and that the dung they created emitted foul odors that prevented him from enjoying his backyard and patio.

He also didn't like the fact that Louis' birds occasionally escaped from the coop and wandered onto the Sinkiewicz compound. Sometimes they met a sad end in the jowls of local predators, leaving Sinkiewicz to deal with the remains.

A fence war ensued.

In 2017, Sinkiewicz put up a chain link fence to bar Louis' trespassing birds. Two years later, Louis erected a six-foot wooden stockade fence to provide his family privacy from Sinkiewicz's alleged snooping.

But Bluefort says the plaintiff would peer over the wooden fence to keep tabs on her client's property.

"It started with his asking [Louis] about the permit," Bluefort says. "You could see there was going to be a problem going forward where [Sinkiewicz] felt it was in his hands to regulate his neighbors. That's the cause of a lot of these neighborhood disputes when you have a neighbor who does that."

Meanwhile, Sinkiewicz had called city officials 26 times complaining about Louis' chicken coop. Despite the calls and multiple visits by inspectors, the city found no health code violations.

Sinkiewicz then turned to the courts, but even there he could find no relief.

In rejecting the plaintiff's claim that the defendant had violated his rights to privacy and the quiet enjoyment of his property, Buckley found that Sinkiewicz failed to prove that any noise from the chickens was so unusual in volume or level to be considered unreasonable.

"[The plaintiff] failed to prove that the frequency or duration

of any noise from the coop constitutes a substantial or serious intrusion on his right of solitude when sitting on his patio or spending time in his yard," Buckley wrote. "Indeed, the noise has not disrupted his daily routine. Further, Louis's maintenance of a chicken coop has a legitimate purpose and does not violate any City ordinance or regulation."

Bluefort says she's disappointed that the trial judge ruled against Louis on his counterclaims that Sinkiewicz interfered with the quiet enjoyment of his property and invaded his privacy.

Though some might consider the matter to have been merely a "minor annoyance," neighbor disputes like the one between Louis and Sinkiewicz can prove to be very costly, says James E. Gallagher, a real estate litigator



James E. Gallagher

at Davis Malm in Boston. Gallagher says he counsels his clients about making sure a spat with a neighbor doesn't spiral out of control.

"I try to talk to my clients about keeping perspective," Gallagher says. "A lot of times it's all about the return on your investment. Is spending all this money on discovery and a trial worth the risk of potentially losing like this plaintiff did?"