

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X

TOWN OF ISLIP,

Index No.

Plaintiff,

SUMMONS

-against-

Plaintiff designates Suffolk County as the place of trial. The basis of this venue is Plaintiff, Town of Islip, is a municipal corporation located within Suffolk County.

777 CHRIS'S WAY LLC., and
SLOTH ENCOUNTERS.COM LTD.,

Defendants.

-----X

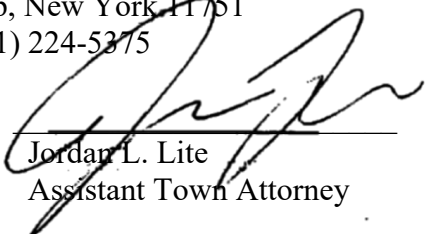
TO THE ABOVE NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of an answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiffs within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete, if this summons is not personally delivered to you within the State of New York), or on the consent of the attorney for the Plaintiff, at the same time that you file a motion, opposition, answer or other response to the accompanying Verified Complaint, specifically in advance of the return as scheduled by the accompanying Order to Show Cause.

Please take notice that this is an enforcement proceeding commenced pursuant to Town Law §135(1) and § 268(2) seeking to enjoin Defendants from using and maintaining certain real property located in Hauppauge, Town of Islip, County of Suffolk, State of New York in violation of the Islip Town Code, New York State Fire Code, and the New York State Property Maintenance Code. In case of your failure to appear, judgement will be taken against you by default.

Dated: Islip, New York
September 13, 2022

JOHN R. DICIOCCIO
Islip Town Attorney
655 Main Street
Islip, New York 11751
(631) 224-5375

By: 
Jordan L. Lite
Assistant Town Attorney

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X

TOWN OF ISLIP,

Plaintiff,

Index No.

VERIFIED COMPLAINT

-against-

777 CHRIS’S WAY LLC., and
SLOTH ENCOUNTERS.COM LTD.,

Defendants.

-----X

Plaintiff, TOWN OF ISLIP, by its Attorney Jordan L. Lite, Esq., counsel to JOHN R. DICIOCCIO, Esq., ISLIP TOWN ATTORNEY, as and for its Summons and Complaint (“Complaint”) in this proceeding against Defendants, 777 CHRIS’S WAY LLC., and SLOTH ENCOUNTERS.COM LTD (collectively hereinafter “Defendants”), respectfully shows to this Court and alleges the following:

NATURE OF PROCEEDING/ ACTION AND RELIEF SOUGHT

1. At all times hereinafter mentioned, Plaintiff, Town of Islip (“Town”), was and still is a municipal corporation duly organized and existing under and by virtue of the laws of the State of New York and has offices at 655 Main Street, Islip, New York, 11751.
2. Upon information and belief, at all times hereinafter mentioned, Defendant, 777 Chris’s Way, LLC., was and still is the owner of a parcel of real property located at 551 Veterans Highway, Hauppauge, New York, 11788, known as District 0500 Section 2.00, Block 1.00, Lot 7.005 on the Town of Islip Tax Map (the “Premises”).

3. Upon information and belief, at all times hereinafter mentioned, Defendant, SLOTH ENCOUNTERS.COM LTD. (“Defendant Sloth Encounters”), was and still is the tenant of the Premises.
4. Defendants, or any of them, as owner or lessee or otherwise are in possession of the Premises.
5. Pursuant to the authority granted by Town Law §261 and 263 and for the purpose of promoting the health, safety and welfare of the residents of the Town, the Town has duly adopted and enacted the Zoning Code of the Town of Islip (the “Zoning Code”), as amended. A true and correct copy of the relevant portions of Town’s Zoning Code is collectively annexed hereto as Exhibit A.
6. Moreover, in recognition of the suburban nature of the Town and that no part thereof is suitable for the maintenance of wild animals, the Town has duly adopted and enacted Chapter 12 Animal Code of the Town of Islip (the “Animal Code”), as amended. Specifically, the Town adopted Article III, Wild Animals, for the safety and welfare of the residents of the Town and the interest of preventing cruelty to such animals or the creation of a hazard by their presence. A true and correct copy of the relevant portions of Town’s Animal Code is collectively annexed hereto as Exhibit B.
7. Pursuant to Town Zoning Code § 68-25, it is unlawful “to change the occupancy or use of a building... if such occupancy or use is not consistent with the last issued certificate of occupancy for such building.” *See* Exhibit B. As such, any change of use requires a permit from the Town’s Building Division. *Id.* A permit cannot be issued unless the applicant’s new use complies with Town’s Zoning Code. *Id.*

8. The Premises, identified in paragraph 2 above, is certified for Mercantile Group M occupancy, and located within the Business-2 zoning district. A copy of the Premises' Certificate of Occupancy is annexed hereto as Exhibit C.
9. The Business-2 zoning district does not permit use or occupancy for any use other than those specifically authorized pursuant to Town Zoning Code § 68-286. Use of the Premises for any purpose other than for Mercantile Group M occupancy requires a "change of use" permit and compliance with the Town's Zoning Code.
10. The Premises is currently occupied by Defendants, and being used as a commercial wild animal exhibition. Defendants' business page and description of the animal exhibition is collectively annexed hereto as Exhibit D.
11. Defendants' business sells tickets for 30-minute one-on-one encounters with wild animals. *Id.* Defendants' website lists pricing for members of the public to purchase the following encounters: adult ticketing, children (ages 3 and up) ticketing, girl and boy scouts promotional ticketing, upgraded private encounter experiences and birthday party packages targeted specifically for minors. *Id.*
12. Animal exhibitions are not authorized in Business-2 zoning districts pursuant to Town Zoning Code § 68-289.1. Rather, animal exhibitions are only authorized to operate in the Town of Islip Business-3 zoning district, upon the granting of a special permit by the Town of Islip Town Board after a public hearing. Town Zoning Code § 302(H).
13. Defendants' occupancy of a Premises as an animal exhibition is illegal under Town's Zoning Code.

14. Upon information and belief, Defendants are currently in possession at the Premises of seven (7) sloths – six Linnaeus two-toed sloths and one Hoffman two-toed sloth. Both of these species are native to Costa Rica, Honduras and other portions of South America. *See* Exhibit D at 3.
15. Defendants’ seven (7) sloths (the “subject wild animals”) are considered “Wild Animals” pursuant to Town Animal Code § 12-22. *See* § 12-22 definition of “WILD ANIMAL” in Exhibit B.
16. § 12-23.A of Town Animal Code sets forth, “[n]o person shall keep, harbor or possess a wild animal in any place within the Town of Islip other than the following: (a) A zoological park; (b) A laboratory operated pursuant to §504 of the Public Health Law; (c) A carnival, circus or public outdoor show for which a special permit from the Town Board has been obtained; or (d) An educational or scientific institution chartered or licensed by the State of New York.” Exhibit B.
17. The Premises does not have a Certificate of Occupancy for a zoological park. Moreover, the Premises is neither a laboratory pursuant to §504 of the Public Health Law, a permitted carnival, circus or public outdoor show, nor a State licensed institution. Rather, the Premises is certified for Mercantile Group M occupancy. *See* Exhibit C. As such, the harboring, keeping or possessing of any wild animal at the Premises is prohibited.
18. Defendants’ possession of the subject wild animals at the Premises violates Town Animal Code § 12-23.A.
19. In July of 2022, the Town of Islip’s Bureau of Fire Prevention (“Fire Marshals”) received an anonymous complaint reporting potential violations and acts of animal cruelty at the Premises.

20. In response to the anonymous complaint, the Fire Marshals conducted an on-site inspection of the Premises on July 25, 2022. At this inspection, the Fire Marshals personally observed that the Premises was no longer operating as a mercantile use swimming pool supply store, the use authorized per the Premises' existing Certificate of Occupancy.
21. Rather, at the July 25, 2022 inspection, Fire Marshals observed the Premises being operated by Defendants as a commercial animal exhibit housing multiple sloths open for public viewing and interaction. In addition to the operation of Defendants' wild animal exhibit, the Fire Marshals also observed other violations of fire code at the Premises.
22. Following the inspection on July 25, 2022, the Fire Marshals issued the following violation notices under CC# 199057 with an order to remedy the cited violations on or before August 29, 2022 (the "order to remedy date"):
- i. Violation of Town Zoning Code § 68-25B-1: Defendants use of the Premises as an animal exhibit is not consistent with the last issued certificate of occupancy. The Premises existing certificate of occupancy authorizes the use of the building as a mercantile use swimming pool supply store.
 - ii. Violation of Town Fire Code § 19-31: Defendants failure to maintain fire extinguishers at the Premises.
 - iii. Violation of Fire Code § 915.3(c)(1): Defendants failure to provide requisite carbon monoxide alarms on each level of the Premises.
 - iv. Violation of Fire Code § 605.1: Defendants failure to install covers on electrical panels at the Premises constitutes an electrical shock or fire hazard.
 - v. Violation of Animal Code § 12-3.A: Defendants possession and keeping of sloths at the Premises, a commercial building certified for mercantile retail occupancy, is prohibited.

Copies of the Violation Notices issued to the Defendants are collectively annexed and marked Exhibit E.

23. On or about July 27, 2022, the Town received written demand from counsel for the foundation People For the Ethical Treatment of Animals ("PETA"), requesting the Town to investigate the

Premises for violations. A copy of this correspondence with corresponding exhibit is collectively attached hereto and marked Exhibit F.

24. On or about August 19, 2022, Defendant Sloth Encounters appeared as a guest on a public news outlet's podcast to publicly address the growing criticism of Defendants' handling of the subject wild animals at the Premises. *See* Jerry Barmash, *Sloth Encounters Owner 'Going Nowhere' Despite Claims of Mistreatment*, NY Patch, August 19, 2022, available at <https://patch.com/new-york/hauppauge/sloth-encounters-owner-going-nowhere-despite-claims-mistreatment> [last accessed September 13, 2022]. In that public interview, Defendants claimed to "have permits" to operate the wild animal exhibition at the Premises. *Id.* Defendants also broadcasted their intent to expand their unauthorized wild animal exhibit at the Premises. *Id.*
25. On or about August 23, 2022, Defendants' counsel contacted the Town to request additional time to remedy the cited violations. Defendants' letter is attached hereto and marked Exhibit G. Defendants were requesting a 45-day extension in time to remedy the violations issued under CC# 199057 and bring the Premises into legal compliance. *See* Exhibit G.
26. On or about August 24, 2022, Robert Doucet, Chief Fire Marshal, sent a letter via Certified mail and Electronic mail to Defendants' counsel denying the requested 45-day extension. Town's letter is attached hereto and marked Exhibit H. Town's letter included notice of the Town's intent to seek injunctive relief in order to enjoin operation of the unlawful use of the Premises until the property is brought into compliance with the Town of Islip Zoning and Animal Code and State Fire Code. *Id.*
27. On the order to remedy date, August 29, 2022, Chief Fire Marshal Doucet conducted the re-inspection of the Premises. Upon review of the Building Department's records, Defendants had not submitted any building permit application or requests seeking to authorization to legally

operate the Premises as a wild animal exhibit in the applicable Business-2 zoning district. Further, upon reinspection of the Premises, Chief Fire Marshal Doucet personally observed Defendants' harboring and possession of multiple sloths at the Premises, and Defendants' operation of a wild animal exhibition selling tickets to members of the public to view and interact with the subject wild animals. As such, Defendants' failed to comply with Town's Order to Remedy and appearance tickets were issued to Defendants for violations of Town Code §§ 68-25(b) (1), 12-23.A, 68-289.1, and 19-17. A copy of the Appearance Tickets issued to Defendants are attached hereto and marked Exhibit I.

28. From at least June of 2022, and continuing through the present time, Defendants continue to harbor several exotic animals at the Premises and use the Premises, a former pool supply store, as a commercial animal exhibit, even though Defendants have been notified that such use is prohibited.
29. To date, Defendants have not submitted any building permitting applications to legalize the Premises as an animal exhibit in a Business-2 zoning district.
30. Moreover, to date, Defendants have not applied for a change of zone or for any permitting to legalize the use sought to be enjoined herein, and the Premises remains certified to be used for type M (a/k/a retail) occupancy.
31. Defendants' operation of the Premises as a wild animal exhibition is illegal.
32. Defendants' possession of the wild animals at the Premises is illegal.
33. There is no issue of fact in this matter.
34. Towns have authority to enforce their zoning Laws by injunction, among other remedies. Town Law §268.

35. Towns are entitled to a permanent injunction enjoining property owners from occupying or otherwise using their property until such time as a certificate of occupancy was issued. Town Law § 135.
36. Irreparable injury is not a necessary element to enjoin violation of a zoning law. However, the continued use of the subject premises in violation of the Town's law is irreparable harm since it affects the integrity of the Zoning Law. Moreover, the unauthorized possession and exhibiting of wild animals is an immediate and present danger to the public.
37. Town has no adequate remedy at law.

FIRST CAUSE OF ACTION

38. Town repeats and reiterates each and every allegation contained in paragraphs 1 through 34 as though repeated at length herein.
39. The first is for a permanent injunction pursuant to Town Law § 268, prohibiting the Defendants from maintaining or using the premises as an animal exhibit in violation of the Zoning Code.
40. Where a town or village seeks to enforce its building and zoning laws, it is entitled to a permanent injunction upon demonstrating that the party sought to be enjoined is acting in violation of the applicable provisions of local law.
41. Defendants' operation of the Premises as an animal exhibit violates Town's Zoning Code.
42. Defendant's possession and keeping of wild animals in a building certified for retail mercantile occupancy violates Town's Animal Code.
43. Defendants' operation of an illegal business exhibiting wild animals to the public at a location not certified for such use is an immediate and present danger to the public.

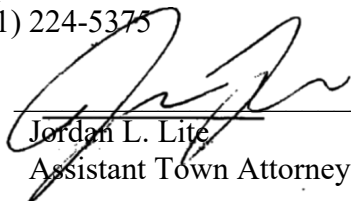
44. The Town has no adequate remedy at law and the continued use of the Premises, without the requisite permit or permission from the Town Board, present a threat to the health, safety and welfare of the Town.

45. Town is entitled to a permanent injunction enjoining Defendants from operating or using the premises to possess wild animals until such time as a certificate of occupancy is issued for such use.

WHEREFORE, Town requests that Defendants, its agents, servants, employees, assigns, lessees and all persons acting on their behalf, be permanently enjoined and restrained: (1) from using, occupying, or permitting the use and occupancy of all or any portion of the Premises located at 551 Veterans Highway, Hauppauge, in the Town of Islip (“Premises”), as an animal exhibit until such time as a certificate of occupancy is issued by the Town in accordance with the requirements of the Town Code of the Town of Islip; (2) from maintaining, occupying or operating any structure on the Premises for which no permit has been issued and/or certificate of occupancy has not been issued; (3) from harboring, possessing, or keeping of wild animals in any place within the Town of Islip not expressly listed in Town Code § 12-23.A; (4) imposing such other and further relief as the Court deems just, equitable and proper, together with attorney’s fees and the costs of this action.

Dated: Islip, New York
September 13, 2022

JOHN R. DICIOCCIO
Islip Town Attorney
Attorney for Plaintiff
655 Main Street
Islip, New York 11751
(631) 224-5375

By: 
Jordan L. Lite
Assistant Town Attorney

VERIFICATION

STATE OF NEW YORK)

ss:

COUNTY OF SUFFOLK)

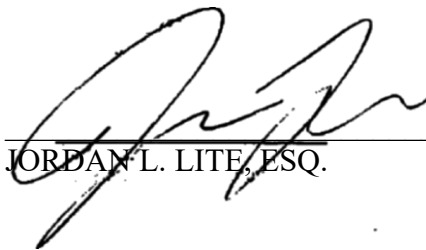
JORDAN L. LITE, ESQ., being duly sworn, deposes and says:

1. That the Town of Islip is a governmental subdivision of the State of New York, to wit: a municipal corporation.

2. That your deponent is an Assistant Town Attorney.

3. That your deponent has examined all of the documents and other evidence in the above entitled action and is now acquainted with the facts therein.

4. That pursuant to §3020 of the CPLR, your deponent has read the foregoing Summons and Verified Complaint and knows the contents thereof, that the same is true to deponent's own knowledge, except as to those matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.



JORDAN L. LITE, ESQ.