

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

SUPERIOR COURT

No: 500-17-044030-081

BIL'IN (VILLAGE COUNCIL), A body politic, which is the municipal authority over the Village of Bil'in, having its seat at the Council Hall of the Village of Bil'in, Occupied Territories, Palestine.

and

AHMED ISSA ABDALLAH YASSIN, duly elected Head of the Village Council of Bil'in, having elected domicile for the purpose of this matter at the Council Hall of the Village of Bil'in, Occupied territories, Palestine.

Plaintiffs

-v.-

GREEN PARK INTERNATIONAL INC, A corporation duly incorporated under Part 1A of the *Companies Act*, R.S.Q. c. C-38, having its registered domicile at 8356, Labarre Street, City and District of Montreal, Quebec, H4P 2E7

GREEN MOUNT INTERNATIONAL INC., A corporation duly incorporated under Part 1A of the *Companies Act*, R.S.Q. c. C-38, having its registered domicile at 8356, Labarre Street, City and District of Montreal, Quebec, H4P 2E7

and

ANNETTE LAROCHE, sole director and officer of the Defendants Green Park and Green Mount, domiciled and residing at 416, Antonin-Campeau street, City of Deux-Montagnes, District of Terrebonne, Quebec, J7R 6Y5

Defendants

**MOTION INTRODUCING A SUIT
(ARTICLE 110 Code of Civil Procedure)**

PLAINTIFFS RESPECTFULLY SUBMIT AS FOLLOWS:

1. The plaintiff Village of Bil'in ("the Village") is located on the West Bank in the Occupied Palestinian Territories. There are approximately 1,700 residents living in the Village. The total land area of the Village is approximately 408 hectares. The Village brings this action on its own behalf and on behalf of its residents.
2. The Plaintiff, Ahmed Issa Abdallah Yassin (hereafter "Village Head Yassin"), is the duly elected Head of the Village Council of Bil'in and is the owner of parcels of land within the Village Land Boundaries as defined by the British Mandatory Government of Palestine.
3. The defendant, Green Park International Inc., is a Canadian corporation registered in the Province of Quebec as Registry No.1162349139 and is subject to the jurisdiction of the Laws of Quebec, Canada and International Law, as appears from the print-out of the registrar of Businesses that will be filed as **Exhibit P-1**.
4. The defendant, Green Mount International Inc., is a Canadian corporation registered in the Province of Quebec as Registry No.1162348099 and is subject to the jurisdiction of the Laws of Quebec, Canada and International Law, as appears from the print-out of the registrar of Businesses that will be filed as **Exhibit P-2**.

5. The registered address of the corporate defendants is 8356, Labarre Street, Montreal, Quebec, H4P 2E7, as appears from **Exhibits P-1 and P-2**.
6. The defendant, Annette Laroche, is the sole Director and Officer of the corporate defendants and resides in the Province of Quebec, as appears from **Exhibits P-1 and P-2**.
7. The defendant, Annette Laroche, is the principal and controlling mind of the corporate defendants and is therefore personally liable for the illegal conduct of those parties as set out in this claim. The Village pleads and relies on Article 321 of the Quebec Civil Code which provides that:

A director is considered to be the mandatary of the legal person. He shall, in the performance of his duties, conform to the obligations imposed on him by law, the constituting act or the by-laws and he shall act within the limits of the powers conferred on him.
8. The Village is located on land commonly known as the "West Bank" which forms part of the Occupied Palestinian Territories.
9. The Village claims that the defendants, and each of them, on their own behalf and as *de facto* agents of the State of Israel, are, and have been illegally constructing residential and other buildings and marketing and selling condominium units and /or other built up areas on the land, to the civilian population of the State of Israel, thereby creating a new dense settlement neighbourhood on the lands of the Village of Bil'in. In so doing, the defendants are aiding, abetting, assisting and conspiring with the State of Israel in carrying out an illegal purpose.

10. The lands on which the defendants are building the new settlement neighbourhood are contained within the boundaries of a Fiscal Map, as appears from **Exhibit P-3** that will be filed and that was drawn in the 1930's, pursuant to the official administrative division of the lands of the West Bank conducted by the British Mandatory Government of Palestine at that time and accepted by the State of Israel. The lands where the defendants are building are described as follows:

Fiscal Block 2 in areas Ad-Dahr, Al Mazarib & Jurat Abu Shamal, Al Masatih & Al Mamlaha, Al Urqan and jkopklm, Fiscal Block 3, in areas:

Umm as-Sabaya, Warat al Mizan, Khirbat Umm ad-Dinein,
Warat ash-Shajar & Khallat al Muqr

Official Coordinates: E 647300-648350, N 204150-206250.

11. The West Bank, which forms part of the Occupied Palestinian Territories, is land occupied by the State of Israel arising from an act of war between Israel and Jordan, Syria and Egypt that took place in 1967.
12. The West Bank lands that were occupied by the State of Israel were never annexed by Israel. The lands are therefore considered by the International Community, the United Nations and the State of Israel to be occupied territory and are subject to the rules and obligations of international law, including international humanitarian law.
13. Prior to the State of Israel occupying the West Bank in 1967, the Municipality of Bil'in had jurisdiction over the entire lands of the Village as more fully described in the Fiscal Map referred to in paragraph 10 herein. Those village lands encompassed and included the lands upon which the defendants have been building the new settlement neighbourhood.

14. The Village pleads, that in contravention of international law as referred to herein, the State of Israel severed portions of the village lands and then illegally assigned those lands to another local council created by the State for the express purpose of building an Israeli settlement on village lands. The defendants are therefore parties to an illegal action whereby the lands that are lawfully within the jurisdiction of the Village have been taken from it to facilitate the illegal construction as pleaded herein.
15. The Village pleads and relies on Article 49(6) of the *Fourth Geneva Convention* dated August 12, 1949 "Relative to the Protection of Civilian Persons in Time of War". The convention is considered customary international law binding all countries and was ratified by the State of Israel. The convention provides as follows:

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

16. The Village further pleads and relies on Section 3(1), Schedule V Protocol 1, Part 1, Article 1 (1) and Schedule V Protocol 1, Part V, Section 11, Article 85 (4)(a) of the *Geneva Conventions Act*, R.S.C. 1985, c. G-3, which provides that:

3(1) Every person who, whether within or outside Canada, commits a grave breach referred to in... Article 11 or 85 of Schedule V is guilty of an indictable offense, and (a) if the grave breach causes the death of any person, is liable to imprisonment for life; and (b) in any other case, is liable to imprisonment for a term not exceeding 14 years.

Schedule V Protocol 1, Part 1, Article 1 (1):

The High Contracting Parties undertake to respect and to ensure respect for this protocol in all circumstances.

Schedule V Protocol 1, Part V, Section 11, Article 85 (4)(a):

In addition to the grave breaches defined in the preceding paragraph and in the Conventions, the following shall be regarded as grave breaches of this Protocol, when committed willfully and in violation of the Conventions or the Protocol:

- (a) ***the transfer by the occupying Power of parts of its own***

civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory, in violation of article 49 of the fourth convention.

17. The Village further pleads and relies on the *Rome Statute of the International Criminal Court* dated July 17, 1998, which provides as follows:

Article 8(2)(b)(viii)

For the purpose of this Statute, 'war crime' includes:

The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory.

Article 25

In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:

- (c) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission.***

18. The Village further pleads and relies on Section 6(1)(c) of the *Canadian Crimes Against Humanity and War Crimes Act* S.C. 2000, c. 24 which provides that:

Every person who, either before or after the coming into force of this section, commits outside Canada (c) a war crime, is guilty of an indictable offence and may be prosecuted for that offence in accordance with section 8.

19. Section 6(3) of the *Canadian Crimes Against Humanity and War Crimes Act* S.C. 2000, c. 24 defines a war crime to mean:

An act or omission committed during an armed conflict that, at the time and in the place of its commission, constitutes a war crime according to customary international law or conventional international law applicable to armed conflicts...

20. Section 6(4) of the Canadian *Crimes Against Humanity and War Crimes Act* S.C. 2000, c. 24 incorporates the definition of "war crime" as set out at Article 8(2)(b)(viii) of the *Rome Statute of the International Criminal Court* dated July 17, 1998 into Canadian domestic law.

21. The Village further pleads and relies on the Quebec *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12, which provides as follows:

4. Every person has the right to the safeguard of his dignity, honour and reputation.

6. Every person has a right to the peaceful enjoyment and free disposition of his property, except to the extent provided by law.

8. No one may enter upon the property of another or take anything therefrom without his express or implied consent.

22. The Village further pleads and relies on Article 1457 of the *Civil Code of Quebec* as follows:

Every person has a duty to abide by the rules of conduct which lie upon him, according to the circumstances, usage or law, so as not to cause injury to another.

Where he is endowed with reason and fails in this duty, he is responsible for any injury he causes to another person and is liable to reparation for the injury, whether it be bodily, moral or material in nature.

He is also liable, in certain cases, to reparation for injury caused to another by the act or fault of another person or by the act of things in his custody.

23. The Village further claims that the defendants, on their own behalf and as agents of the State of Israel, are subject to the jurisdiction and are required to comply with the laws referred to at paragraphs 15 to 22 herein.

24. The Village pleads that the defendants, on their own behalf and as agents of the State of Israel, are constructing residential and other buildings and are creating a new dense settlement neighbourhood on the lands of the

Village and are marketing and selling therein condominium units and other built up areas to the civilian population of the occupying power, the State of Israel, for the purpose of transferring the civilian population of Israel to the village's land and removing the population of the Village from their land. In so doing, the defendants are aiding, abetting, assisting and conspiring with the State of Israel in carrying out an illegal purpose. The defendants, and each of them, are therefore in violation of the aforesaid Article 49(6) of the *Fourth Geneva Convention* dated August 12, 1949, Section 3(1), Schedule V Protocol 1, Part 1, Article 1 (1) and Schedule V Protocol 1, Part V, Section 11, Article 85 (4)(a) of the *Geneva Conventions Act*, R.S. 1985, c. G-3 , Articles 8(2)(b)(viii) and 25 (c) of the *Rome Statute of the International Criminal Court* dated July 17, 1998, Section 6(1)(c), 6(3) and 6 (4) of the *Canadian Crimes against Humanity and War Crimes Act* S.C. 2000, c. 24, Sections 6 and 8 of the *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12 and Article 1457 of the *Civil Code of Quebec*.

25. The Village further pleads that the defendants, and each of them, have the mental capacity to know and understand the consequences of their acts, are able to discern right from wrong and are at fault for the delicts as pleaded herein. The defendants delicts have harmed the Village which has been damaged and has suffered damages. The damages suffered by the plaintiffs were and are a direct and immediate consequence of the faults of the defendants and were reasonably foreseeable in the circumstances under which the faults were committed.

26. The Village further pleads that as a result of their activities in constructing residential and other buildings on the lands of Bil'in, creating a new dense settlement neighbourhood and selling and marketing condominium units

and other built up areas to the civilian population of the State of Israel, the defendants are liable for the delicts of breach of statutory duties and war crimes and the damages that flow from those delicts.

27. The Village further pleads that the defendants, and each of them, willfully intended to enter upon the lands of the Village for the express purpose of constructing residential and other buildings and to create a new dense settlement neighbourhood on Village land. The defendants are marketing and selling therein condominium units and other built up areas to the civilian population of the State of Israel with the further willful intent of transferring the civilian population of Israel to the village's land and removing the population of the Village from their land. In so doing, the defendants have been and are willfully intending to aid, abet and assist the State of Israel in carrying out an illegal purpose.
28. The Village further pleads, in the alternative, that the defendants, and each of them, negligently entered upon the lands of the Village to construct residential and other buildings and to create a new dense settlement neighbourhood on Village land and are marketing and selling therein condominium units and other built up areas to the civilian population of the State of Israel in violation of the laws referred to at paragraphs 15 to 22 herein. In so doing, the defendants are negligently aiding, abetting and assisting the State of Israel in carrying out an illegal purpose.
29. The Village further pleads that pursuant to a decision of the Israeli Supreme Court sitting as the High Court of Justice in *Bargil v Government of Israel*, HCJ 4481/91, the matters at issue herein are not justiciable before the Israeli courts, as appears from a copy of said decision that will be filed as **Exhibit P-4**. In addition, despite the facts and the law as pleaded herein, the Israeli Supreme Court has never ruled that Israeli

settlements in the Occupied Palestinian Territories are illegal under international law thereby making the Israeli courts an inappropriate legal forum for this action.

30. The Village further pleads that the Quebec Superior Court is *the* appropriate forum for this proceeding because the defendants are domiciled in the Province of Quebec and, as Canadian corporations and Canadian citizens, their conduct both in Canada and outside of Canada is governed by International Law, the Laws of Canada and the Laws of Quebec.
31. The Village further pleads that it is entitled to a permanent injunction on the basis of the breaches described herein above and, to any extent this may be necessary, that its residents suffer from and will continue to suffer irreparable harm from the illegal activities of the defendants as set out herein, that there is a serious question to be tried before the court and that the harm suffered by the Village is greater than the harm that the defendants may suffer should this court grant an injunction. The Village further pleads and relies on Section 49 of the Quebec *Charter of Human Rights and Freedoms*, R.S. Q., c. C. 12 which provides that the victim of a breach of the Charter is entitled "***to obtain the cessation of such interference.***"
32. The Village further pleads that the commission of a war crime in itself as pleaded herein is sufficient for it to meet any test for a permanent injunction.
33. The Village further pleads that the illegal activities of the defendants have denied the Village and its residents the use of their land, thereby seriously damaging sources of income from agricultural activity that previously took place on the land.

34. The Village further pleads the conduct of the defendants amounts to a fundamental violation of the human rights of the villagers, denies them freedom of movement and that they are thereby entitled to an interim and final injunction as pleaded herein.

35. The Village further pleads that as a result of the willful intent of the defendants as pleaded herein it is entitled to punitive damages in the amount of \$2,000,000.00 CAD pursuant to Article 1621 of the Quebec Civil Code which provides:

Where the awarding of punitive damages is provided for by law, the amount of such damages may not exceed what is sufficient to fulfill their preventive purpose.

36. Further with respect to punitive damages the Village pleads and relies on Section 49 of the Quebec *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12 which provides as follows:

49. Any unlawful interference with any right or freedom recognized by this Charter entitles the victim to obtain the cessation of such interference and compensation for the moral or material prejudice resulting there from.

In the case of unlawful and intentional interference, the tribunal may, in addition, condemn the person guilty of it to punitive damages.

37. The plaintiff, Village Head Yassin, further pleads and relies upon Article 1 of the Quebec *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12, which provides as follows:

Every human being has a right to life, and to personal security, inviolability and freedom.

38. Village Head Yassin pleads that with respect to him, the defendants are in breach of Article 1 of the Quebec *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12. He thereby repeats and relies upon all of the preceding paragraphs of this claim and seeks all of the relief as claimed herein on his own behalf.

FOR THESE REASONS, PLAINTIFFS PRAY THAT THIS COURT:

GRANT the present Motion Introducing a Suit.

DECLARE that the conduct of the defendants in constructing residential and other buildings and creating a new dense settlement neighbourhood on the land of the Village of Bil'in situated in the West Bank in the Occupied Palestinian Territories and in marketing and selling therein condominium units and other built up areas to the civilian population of the occupying power, the State of Israel, is in violation of Article 49(6) of the *Fourth Geneva Convention* dated August 12, 1949.

DECLARE that the conduct of the defendants in constructing residential and other buildings and creating a new dense settlement neighbourhood on the land of the Village of Bil'in situated in the West Bank in the Occupied Palestinian Territories and in marketing and selling therein condominium units and other built up areas to the civilian population of the occupying power, the State of Israel, is in violation of Article 8(2)(b)(viii) of the *Rome Statute of the International Criminal Court* dated July 17, 1998.

DECLARE that the conduct of the defendants in constructing residential and other buildings and creating a new dense settlement neighbourhood on the land of the Village of Bil'in situated in the West Bank in the Occupied Palestinian Territories and in marketing and selling therein condominium units and other built up areas to the civilian population of the occupying power, the State of Israel, is in violation of the *Geneva Conventions Act*, R.S. 1985, c. G -3, Section 3(1), Schedule V Protocol 1, Part 1, Article 1 (1) and Schedule V Protocol 1, Part V, Section 11, Article 85(4)(a).

DECLARE that the conduct of the defendants in constructing residential and other buildings and creating a new dense settlement neighbourhood on the land of the Village of Bil'in situated in the West Bank in the Occupied Palestinian Territories and in marketing and selling therein condominium units and other built up areas to the civilian population of the occupying power, the State of Israel, is in violation of Section 6 of the *Canadian Crimes Against Humanity and War Crimes Act* 2000, c. 24.

DECLARE that the conduct of the defendants in constructing residential and other buildings and creating a new dense settlement neighbourhood on the land of the Village of Bil'in situated in the West Bank in the Occupied Palestinian Territories and in marketing and selling therein condominium units and other built up areas to the civilian population of the occupying power, the State of Israel, is in violation of Sections 6 and 8 of the Quebec *Charter of Human Rights and Freedoms*, R.S. Q., c. C. 12.

DECLARE that the conduct of the defendants in constructing residential and other buildings and creating a new dense settlement neighbourhood on the land of the Village of Bil'in situated in the West Bank in the Occupied Palestinian Territories and in marketing and selling therein condominium units and other built up areas to the civilian population of the occupying power, the State of Israel, is in violation of Article 1457 of the *Civil Code of Quebec*.

GRANT A PERMANENT INJUNCTION AND ORDER the defendants and their directors, officers, agents or any other person under their direction or control made aware of this injunction to forthwith cease all construction, sales activity, transfer of rights, marketing or any other transactions with respect to the land referred to which description includes, but is not limited to the following:

Fiscal Block 2 in areas Ad-Dahr, Al Mazarib & Jurat Abu Shamal, Al Masatih & Al Mamlaha, Al Urqan and Fiscal Block 3, in areas Umm as-Sabaya, Warat al Mizan, Khirbat Umm ad-Dinein, Warat ash-Shajar & Khallat al Muqr

Official Coordinates: E 647300-648350, N 204150-206250.

ORDER the defendants, at their cost, to forthwith remove from the aforesaid lands all building structures, equipment and material and to return the lands to the condition that they were in prior to the building construction.

ORDER defendants to render unto this Court, within sixty (60) days of the judgment of the Court, an accounting of all of the activities of the defendants arising from their construction of residential and other buildings on the aforesaid lands, creating

a new dense settlement neighbourhood and marketing and selling of condominium units in the buildings.

RESERVE Plaintiffs right to damages and, upon review by this Court at a later hearing after review by all parties of the Accounting ordered above and representation to this Court thereon, condemn Defendants to pay Plaintiffs damages in the appropriate amount for the delict of breach of statutory duties, the intentional commission of war crimes and negligence.

CONDEMN Defendants to pay Plaintiffs punitive damages in the amount of \$2,000,000.00 CAD pursuant to the provisions of Sections 49 the Quebec *Charter of Human Rights and Freedoms*, R.S. Q., c. C. 12.

MAKES SUCH FURTHER ORDERS AND GRANT SUCH OTHER RELIEF as counsel may advise and this court permit.

THE WHOLE WITH COSTS.

Toronto, this 7th day of July 2008



Mr Mark H. Arnold
(GARDINER MILLER ARNOLD LLP)
Counsel for Plaintiffs

NOTICE TO DEFENDANT**(Article 119 CCP)**

TAKE NOTICE THAT the Plaintiffs have filed this Motion in the office of the Superior Court for the judicial District of Montreal.

To file an answer to this motion, you must first file an appearance, personally or by advocate, at the Montreal Court House, located at 10, Notre-Dame Street West, City and District of Montreal, within ten (10) days of service of this motion.

If you fail to file an appearance within the time limit indicated, a judgment by default may be rendered against you without further notice upon the expiry of the ten (10) day period.

If you file an appearance, the action will be presented before the Court on August 11, 2008, at 9:00 a.m., in Room 2.16 of the Court House. On that date, the Court may exercise such powers as are necessary to ensure the orderly progress of the proceeding or the Court may hear the case, unless you make a written agreement with the Plaintiffs or the Plaintiffs' counsel on a timetable for the orderly progress of the proceeding. The timetable must be filed in the office of the Court.

In support of the motion to institute proceedings, the Plaintiffs disclose the following exhibits:

- Exhibit P-1 : Print-out of the registrar of Businesses concerning Green Park International Inc.
- Exhibit P-2 : Print-out of the registrar of Businesses concerning Green Mount International Inc.
- Exhibit P-3 : Fiscal Map Drawn in the 1930'S
- Exhibit P-4 : Copy of the decision of the Israeli Supreme Court sitting as the High Court of Justice in Bargil v Government of Israel, HCJ 4481/91

Copy of these exhibits may be obtained from counsel for Plaintiffs.

Request for transfer of a small claim

If the amount claimed by the Plaintiff does not exceed \$7,000.00, exclusive of interest and if you could have filed such an action as a PlaintiffS in Small Claims Court, you may make a request to the Clerk for the action to be

disposed of pursuant to the rules of Book VIII of the Code of Civil Procedure (R.S.Q., c. C-25). If you do not make such a request, you could be liable for costs higher than those provided for in book VIII of the Code.

N° : 500-17-044030-081

CANADA

SUPERIOR COURT
Province of QUÉBEC
District of MONTRÉAL

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and

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Plaintiffs

-v.-

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and

ANNETTE LAROCHE, sole director and officer of the Defendants domiciled and residing at 416, Antonin-Campeau street, City of Deux-Montagnes, District of Terrebonne, Quebec, J7R 6Y5

Defendants

MOTION INTRODUCING A SUIT
(ARTICLE 110 Code of Civil Procedure)

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