

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK SUPERIOR COURT

CIVIL ACTION NO. 2284C0139

BUSINESS LITIGATION SESSION

_____)
147 CHARLES HOLDINGS LLC)
Plaintiff)
vs.)
BEACON HILL PUB, LLC)
d/b/a Beacon Hill Pub,)
Defendant)
_____)

SUFFOLK SUPERIOR COURT
 CIVIL CLERK'S OFFICE
 2022 JAN 21 10:37
 MICHAEL JOSEPH BOHANNON
 CLERK / MAGISTRATE

VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT
AND SPECIFIC PERFORMANCE

Introduction

1. This is an action for Declaratory Judgment declaring a commercial lease as terminated and seeking the immediate specific performance removing the Defendant Tenant after lease termination, and to enter damages for Plaintiff against the Defendant Tenant that is causing intentional and known financial damages to Plaintiff in contravention to the prior transfer of real property and construction plans by tenant's related entity.

Jurisdiction

2. This Court has jurisdiction over this action pursuant to Massachusetts Superior Rules governing actions with damages exceeding \$25,000.00 and particularly pursuant to the Massachusetts Superior Court Rules, Superior Court Administrative Directive No. 17-1: Superior Court Business Litigation Sessions (sitting in Suffolk County) which governs the subject matter of this complaint, "*e.1 claims involving breaches of contract*

or fiduciary duties, fraud, misrepresentation, business torts or other violations involving business relationships” and “k.1 other claims involving complex issues or that require close case management, including but not limited to insurance coverage or reinsurance, construction, commercial lease disputes, real estate and consumer matters”. Additionally, the cause of action involves commercial real property with building thereon with construction located in Boston, MA, and all parties are Boston based parties.

3. This Court has jurisdiction over this matter as it relates to land and building(s) located thereon at 147-149 Charles Street, Boston, Massachusetts (Suffolk County).

Parties

4. Plaintiff, **147 CHARLES HOLDINGS LLC**, is a duly organized Massachusetts limited liability company doing business with a registered address of 217 Hanover Street #184, Boston, MA 02113, and at all times relevant is collectively the “Plaintiff” or “Landlord” or “Purchaser”.
5. Defendant **BEACON HILL PUB, LLC** is a duly organized Massachusetts limited liability company doing business with a registered address of 320 Washington Street, Suite 3FF, Brookline, MA 02445; however, no resident agent is registered with the Massachusetts Division of Corporation. At all times relevant the Defendant **Beacon Hill Pub, LLC** is collectively the “Defendant” or “Tenant”.
6. Defendant’s related entity **The Greatest Boston Bar Company LLC** is a registered Massachusetts Limited Liability Company that has the same manager of record Mr. Fred Starikov and the same registered business address 320 Washington Street, Suite 3FF, Brookline, MA 02445 as Defendant **Beacon Hill Pub, LLC**. The Defendant’s related entity **The Greatest Boston Bar Company LLC** is at all times relevant the “Seller”.

Background Facts

7. The above paragraphs are incorporated herein.
8. On or about October 6, 2021, Plaintiff 147 Charles Holdings, LLC purchased the real property with a building located thereupon at 147-149 Charles Street, Boston, Massachusetts (Suffolk County), and such deed was recorded the same date at the Suffolk County Registry of Deeds in Book 66432, Page 040 (**See attached copy Exhibit "A"**).
9. The subject property at 147-149 Charles Street, Boston, MA was sold by Defendant's related entity The Greatest Boston Bar Company LLC, a registered Massachusetts Limited Liability Company managed by Defendant's manager Mr. Fred Starikov.
10. In conjunction with the Plaintiff's subject property purchase of 147-149 Charles Street, Boston, MA, the Plaintiff also purchased from Defendant's related entity The Greatest Boston Bar Company LLC already approved demolition and construction plans for the redevelopment of the ground floor Beacon Hill Pub, and nine residential units above the Beacon Hill Pub.
11. The Plaintiff immediately following the purchase closing commenced demolition of the upper floor existing, but vacant residential units.
12. At the same time of the real estate closing on October 6, 2021, the Plaintiff executed a written ONE MONTH short-term commercial lease with the Defendant BEACON HILL PUB, LLC d/b/a Beacon Hill Pub, the existing ground floor bar. The Defendant is a Massachusetts Limited Liability Company with its manager of record being the same Mr. Fred Starikov. (**See attached copy Exhibit "B" section 2 "Term"**).
13. Both the real estate seller The Greatest Boston Bar Company LLC and Defendant Beacon Hill Pub LLC d/b/a Beacon Hill Pub are managed by the same person Mr. Fred Starikov, and Mr. Fred Starikov executed the written short-term commercial lease in such official capacity for Tenant/Defendant Beacon Hill Pub LLC d/b/a Beacon Hill Pub.

14. On October 6, 2021, Plaintiff through its legal counsel notified the Tenant and Tenant's legal counsel that the Plaintiff landlord elected to not renew the lease under the sixty (60) notice of termination clause (**See attached copy Exhibit "B" section 10 "renewal terms"**).
15. On October 29, 2021, Plaintiff through its legal counsel again notified the Tenant that the Plaintiff landlord elected to not renew the lease under the sixty (60) notice of termination clause (**See attached copy Exhibit "B" section 10 "renewal terms"**).
16. The written notice of non-renewal of lease set a termination date of December 31, 2021, thereby providing a full two months prior notice, and all aspects of service set forth in the lease section 27 "Notice" were satisfied. (**See attached copy Exhibit "C" Lease non-renewal notice**).
17. On October 29, 2021, the Defendant's legal counsel acknowledged receipt of the notice of non-renewal of lease and the termination date of December 31, 2021. (**See attached copy Exhibit "D" Email of Defendant's legal counsel of October 29, 2021**).
18. On December 31, 2021, the lease between the Plaintiff and Defendant terminated at the end of day.
19. At the close of December 31, 2021, the Defendant did not vacate the premises, and continues to occupy the subject property at 147-149 Charles Street, Boston, MA operating its Beacon Hill Pub.
20. Since the lease terminated on December 31, 2021, the Defendant does not have a valid lease and its continued occupation is an unlawful trespass.
21. Prior to the December 31, 2021 lease termination date, the Defendant never objected to the December 31, 2021 termination set forth in the non-renewal notice.
22. The Plaintiff landlord has never renewed the lease past the termination date of December 31, 2021.
23. Since December 31, 2021, the Plaintiff and its legal counsel made repeated demand upon the Defendant Tenant to vacate the premises.
24. The Defendant tenant refuses to vacate the Plaintiff's property.

25. Defendant's refusal to vacate the lease premises is causing the Plaintiff Landlord to incur substantial, known financial costs and stoppage of the existing demolition and construction, and such financial costs continue to accrue each day the Defendant occupies the subject premises at 147-149 Charles Street, Boston, MA.
26. In conjunction with the real property sale, the Defendant agreed to sell and transfer to the Plaintiff the active "All Alcohol" Liquor license used and required at the subject premises to operate the bar.
27. Defendant has refused to vacate the premises, and its continued use of the liquor license without a lease violates the liquor license regulations, and intentionally creates an undue harm and intentional interference with the liquor license transfer and sale.
28. Defendant's refusal to vacate is bad faith action directly contravening the intended purpose of selling the subject premises to the Plaintiff and promising to sell the liquor license used upon the premises.
29. Without immediate and emergency action, the Defendant will continue to cause the Plaintiff known financial losses, prevent the Plaintiff from completing its development/construction upon the property which commenced at the deed transfer date of October 6, 2021, materially interfere with the Liquor License transfer, and create additional costs and delays for the landlord, including but not limited to legal costs.

COUNT I

DECLARATORY JUDGMENT PURSUANT TO MGL c.231A

30. Plaintiff repeats paragraphs above and asserts each herein.
31. Massachusetts General Laws (MGL) Chapter 231A, Section 1 provides Superior Court with the authority and jurisdiction to *"make binding declarations of right, duty, status and other legal relations sought thereby, either before or after a breach or violation thereof has occurred in any case in which an actual controversy has arisen and is specifically set forth in the pleadings..."*

32. MGL c.231A, Section 2 states *“The procedure under [MGL c.231A] section one may be used to secure determinations of right, duty, status or other legal relations under deeds, wills or written contracts or other writings constituting a contract...”*

33. MGL c.231A, Section 9 states *“This chapter is declared to be remedial. Its purpose is to remove, and to afford relief from, uncertainty and insecurity with respect to rights, duties, status and other legal relations, and it is to be liberally construed and administered.”*

34. The Plaintiff as set forth in the facts incorporated herein complains that the commercial lease with the Defendant Tenant was not renewed, notice was provided pursuant to the lease, and therefore the lease expired at the end of day, December 31, 2021.

35. The Defendant Tenant refuses to vacate the premises and continues to operate without a lease at the Plaintiff landlord’s property.

36. Since the commercial lease of the Plaintiff and Defendant is in dispute, MGL c.231A Declaratory Judgment provides this Court with the jurisdiction to declare the rights of the Plaintiff with the non-renewed, terminated lease in dispute.

WHEREFORE, the Plaintiff seeks a Declaratory Judgment of this Court pursuant to MGL c.231A establishing that the commercial lease was not renewed and therefore expired on December 31, 2021, and accordingly the Defendant Tenant is ordered to immediately vacate the subject premises.

COUNT II

EQUITABLE RELIEF UNDER SPECIFIC PERFORMANCE

37. Plaintiff repeats paragraphs above and asserts each herein.

38. “Specific Performance” is an equitable remedy provided by the Court to cure situations where money damages alone are inadequate.

39. Here, the Plaintiff demands specific performance from the Defendant Tenant to immediately vacate the subject commercial leased premises.

40. The Plaintiff Landlord and Defendant Tenant entered a written short term ONE MONTH commercial lease with a sixty (60) day notice requirement for non-renewal. **(See attached copy Exhibit “B” section 2 “Term”).**
41. On October 6, 2021 and again on October 29, 2021, the Plaintiff satisfied the notice terms of the lease notifying the Defendant tenant that the lease would not be renewed and therefore the lease terminated on December 31, 2021.
42. The Defendant Tenant under the lease agreed, that upon lease termination the Defendant Tenant would *“yield possession to Landlord on the last day of the term of this Lease...”* **(See attached copy Exhibit “B” section 4 “Possession”).**
43. The Defendant Tenant under the lease agreed, that *“At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant...”* **(See attached copy Exhibit “B” section 4 “Possession”).**
44. Defendant Tenant continues to occupy the property after lease termination on December 31, 2021 and refuses to provide possession to the Plaintiff Landlord and refuses to remove its goods and effects.
45. Defendant Tenant’s non-compliance in vacating the property and removing its goods and effects prevents the Plaintiff Landlord from continuing its demolition and intended construction upon the property.
46. Money damages alone are insufficient relief from Defendant Tenant’s failure to vacate the premises.

WHEREFORE, the Plaintiff seeks relief from this Court pursuant to the doctrine of Specific Performance ordering the Defendant Tenant to comply with the lease terms to immediately yield possession to the Plaintiff Landlord and remove forthwith all tenant goods and effects located thereupon the former leased premises.

COUNT III

BREACH OF CONTRACT

47. Plaintiff repeats paragraphs above and asserts each herein.
48. On October 6, 2021, Plaintiff landlord 147 Charles Holdings LLC and Defendant Tenant Beacon Hill Pub, LLC d/b/a Beacon Hill Pub executed a short-term, ONE MONTH commercial lease (**See attached copy Exhibit “B” section 4 “Possession”**).
49. The lease was a binding written contract of the parties.
50. Plaintiff Landlord provided notice of non-renewal of lease on October 6, 2021 and again on October 29, 2021 to the Defendant Tenant.
51. Defendant Tenant acknowledged receipt of the non-renewal notice and never objected.
52. The Defendant Tenant under the lease agreed, that upon lease termination the Defendant Tenant would *“yield possession to Landlord on the last day of the term of this Lease...”* (**See attached copy Exhibit “B” section 4 “Possession”**).
53. The Defendant Tenant under the lease agreed, that *“At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant...”* (**See attached copy Exhibit “B” section 4 “Possession”**).
54. The Defendant Tenant under the lease agreed *“... to indemnify, hold harmless, and defend Landlord from and against any and all losses, claims, liabilities, and expenses, including reasonable attorney fees, if any, which Landlord may suffer or incur in conjunction with Tenant’s possession, use or misuse of the Premises...”* (**See attached copy Exhibit “B” section 20 “Indemnity Regarding Use of Premises”**).
55. The Defendant Tenant breached the contract by failing to yield possession to the Plaintiff Landlord and failed to remove Defendant Tenant’s goods and effects by the close of day, December 31, 2021 when the lease terminated.

56. The Defendant tenant's breach of contract has caused the Plaintiff Landlord to suffer damages, and said damages continue to accrue at time of filing.

57. The Plaintiff Landlord was forced to retain legal counsel and incur legal costs and fees as a result of the Defendant Tenant's breach of contract, and such costs shall continue to accrue.

WHEREFORE, the Plaintiff Landlord 147 Charles Holdings LLC seeks a judgment in its favor against the Defendant Tenant for breach of contract and seeks entry of a judgment awarding the Plaintiff its financial damages, immediately recovery of the lease premises, disposal costs for the removal of Defendant Tenant's goods and effects, and legal fees and costs incurred in pursuing this legal action. Plaintiff seeks an additional award to compensate the Plaintiff for its loss of income, loss on investment, loss of monies from construction interruptions and delays, and such additional costs or financial losses proven in this action. Plaintiff seeks an additional award in its favor this Court finds meet and just, including but not limited to recovery of its legal fees and costs with interest.

Respectfully for the Plaintiff:

147 CHARLES HOLDINGS LLC:

Dated: January 20, 2022



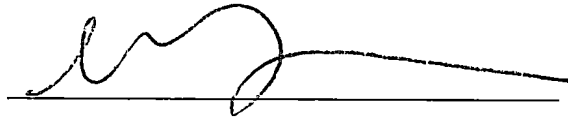
Chaz R. Fisher, Esq. (BBO# 649059)
FISHER LEGAL, P.A.
217 Hanover Street #184
Boston, MA 02113
(T) 617-851-1560
(F) 561-424-8106
Email: Chaz@FisherLegalpa.com

(SEE NEXT PAGE FOR VERIFICATION BY PLAINTIFF)

VERIFICATION OF COMPLAINT BY PLAINTIFF
147 CHARLES HOLDINGS LLC by its authorized agent

I, **Kyra Deligiannides**, as authorized manager for the Plaintiff 147 Charles Holdings LLC a duly registered Massachusetts Limited Liability Company, hereby verify that I have read this Complaint and reviewed attached exhibits thereto, and the facts and statements made within and the exhibits are true and accurate to the best of my knowledge and belief, and I am not aware of any material facts being omitted herefrom.

Signed under the pains and penalties of perjury this 20th day of January 2022.

A handwritten signature in black ink, appearing to read 'Kyra Deligiannides', written over a horizontal line.

Kyra Deligiannides
As authorized manager for 147 Charles Holdings LLC