



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

NEW CASTLE COUNTY,)
)
Plaintiff,) C.A. No.: N24C- [CCLD]
)
v.) **JURY TRIAL DEMANDED**
)
HERSHA HOSPITALITY)
MANAGEMENT, L.P.,)
)
Defendant.)

COMPLAINT

Plaintiff New Castle County (the “County”) brings this complaint against Hersha Hospitality Management, L.P. (“Hersha”) for breach of contract, negligence, and declaratory judgment. The allegations in this Complaint are made upon the County’s knowledge as to itself and, as to all other matters, upon information and belief. The County alleges as follows.

NATURE OF THE ACTION

1. This is a case about Hersha’s gross mismanagement of the Hope Center.
2. The Hope Center is located in the former Sheraton Hotel on Airport Road in New Castle and is one of the largest homeless shelters on the east coast. The County owns the Hope Center and engaged Hersha to manage it. Hersha seemed like the perfect fit to manage the Hope Center because its affiliate was the former owner of the building. Hersha also marketed itself as “an industry leader in hospitality,” with a “portfolio of 240 hotels and over \$2BN in managed revenues,”

so it understood how to repair and maintain a building like the Hope Center. The parties entered into a Property Management Agreement (the “Agreement”) on December 1, 2020, when the hotel industry was suffering through the impacts of the COVID-19 pandemic. But as the hotel industry recovered from the COVID-19 pandemic, the Hope Center became an afterthought for Hersha. By 2023, Hersha was no longer focused on taking care of the Hope Center and making certain that ordinary maintenance and repairs were being done in a timely fashion.

3. Hersha’s failures led the County to send a series of notice letters starting in May 2023 and going through August 2024. The notice letters outlined, in detail, the County’s concerns with Hersha’s ongoing mismanagement of the Hope Center and how those failures caused the Hope Center to sustain significant damage. For example, the County notified Hersha that one of its maintenance worker’s incompetence was the direct cause of two separate flooding events in late 2023, which happened weeks apart. These two flooding events alone caused hundreds of thousands of dollars of damage to the Hope Center. Despite this, Hersha failed to terminate the maintenance worker. Worse still, for months, Hersha failed to employ a chief engineer to oversee the complicated requirements of managing the Hope Center and overseeing ordinary repairs and routine maintenance. From late 2023 to early 2024 alone, Hersha’s neglect caused at least four flooding incidents and hundreds of thousands of dollars in property damage.

4. Rather than deal with the problems, Hersha ignored them. Rather than hire qualified individuals and train them for the rigors of the job, Hersha hired unqualified and incompetent workers and allowed them to stay employed. Rather than make ordinary repairs, and committing itself to providing routine maintenance, Hersha ignored warning signs that the Hope Center was being damaged by water intrusion, high level of moisture, and mold.

5. In April 2024, the County finally terminated the Agreement and expelled Hersha from the Hope Center. Upon taking over management, the County uncovered an unsettling reality: Hersha had failed to identify ongoing water intrusion and moisture issues that had led to significant property damage that may cost the County in excess of a million dollars to repair and fix.

6. Making matters worse, Hersha has blatantly breached the Agreement by engaging in self-help and refusing to refund the County nearly \$125,000.00 of Hope Center funds. There is no good-faith basis for Hersha's refusal to transfer the County its own funds. Instead, Hersha has tried to use the money as leverage to extract concessions from the County because Hersha knows that the County needs those funds to operate the Hope Center and carry out its mission of providing a safe place to live for people struggling with homelessness.

7. Through this action, the County seeks to hold Hersha accountable for its misconduct and recover significant damages that Hersha caused to the County.

PARTIES AND JURISDICTION

8. Plaintiff New Castle County is a political subdivision of the State of Delaware. The County owns the Hope Center, which is located at 365 Airport Road, Wilmington, Delaware 19720.

9. Defendant Hersha Hospitality Management, L.P. is a Delaware limited partnership.

10. The Court has personal jurisdiction over Hersha because Hersha is a Delaware limited partnership.

11. This Court has subject matter jurisdiction over this action under Article IV, Section 7 of the Delaware Constitution and 10 *Del. C.* § 541.

FACTUAL ALLEGATIONS

I. The County Buys the Sheraton from Hersha.

12. The Hope Center was originally the Sheraton Wilmington South Hotel (the “Sheraton”). Construction of the Sheraton was completed in the summer of 2000. The building is about 192,275 square feet and has 192 rooms.

13. Before the County’s purchase of the Sheraton, there had been several owners of the property. In around 2011, Hersha Hospitality Trust (“HHT”), an affiliate of Hersha, purchased the Sheraton.

14. Before the sale of the Sheraton to the County in December 2020, on information and belief, HHT was suffering (like all hotel operators) through the

COVID-19 pandemic. According to the Delaware Hotel & Lodging Association, hotel occupancy in New Castle County at this time had decreased by roughly 1/3rd and the county's average daily room rate (a key industry metric) was down by nearly 45%.

15. During the COVID-19 pandemic, HHT sold the Sheraton through an auction process. The County was the successful bidder in the auction, agreeing to a purchase price of \$19.5 million.

16. Before closing, according to HHT, it completed several improvements to the property, including a restoration of the building's exterior façade. At the time of closing, HHT did not make any relevant disclosures relating to the condition of the Sheraton, nor were there any relevant issues identified in pre-closing due diligence by the County. Additionally, an environmental study stated that there was "[n]o obvious indications of water damage or mold growth...observed during Partner's visual assessment" of the Sheraton.

17. The County and HHT closed on the Sheraton on December 1, 2020.

18. After closing, the County repurposed the Sheraton, turning it into an emergency shelter for Delaware's most vulnerable citizens. The Hope Center initially housed hundreds of homeless people, providing shelter to vulnerable populations during the COVID-19 pandemic.

19. Soon thereafter, the Hope Center expanded its vision. By 2021, the Hope Center began to receive referrals from various federal and state agencies of people struggling with homelessness. The Hope Center now houses almost 400 people every night, while also providing comprehensive onsite services. The Hope Center works with community organizations to offer substance abuse, mental health, and primary medical care services, among others.

II. The Parties' Agreement.

20. Contemporaneous with the sale of the Sheraton, the County entered into the Agreement with Hersha. The Agreement is dated December 1, 2020.

21. The Agreement made clear that the County “desires to engage [Hersha] to manage and operate the Property, and [Hersha] has agreed to manage and operate the Property.” Agt. p. 5.

22. The purpose of the Agreement was simple: Let the County focus on providing necessary social services to its residents, while a well-respected hotel and property management company, Hersha, handled the management of the building.

23. The Agreement had a term of five years, subject to earlier termination by the Parties. Agt. § 2.1

24. The Agreement provided a detailed list of Hersha’s scope of services, which required Hersha to:

- “Recruit, train, direct, supervise, employ and dismiss [Hersha’s] on-site staff ... for the operation of the Property” (Agt. § 3.1(A));
- “Provide routine accounting services in accordance with [Hersha’s] standard practices and purchasing services as required in the ordinary course of business” (*id.* § 3.1(E));
- “Cause all ordinary repairs and maintenance to the Property, of which [Hersha] is aware, to be made and conducted” (*id.* § 3.1(G));
- “Provide project management services on [the County’s] behalf in connection with capital improvements to the Property, or the renovation and refurbishment of the Property ...” (*id.* §3.1(H));
- “Retain legal counsel and such other professionals, consultants, and specialists as [Hersha] deems necessary in connection with the management of the Property ... provided, however, [Hersha] shall not expend more than the amount budgeted in the then applicable approved Budget ...” (*id.* § 3.1(J)); and
- “Provide such other services as are required under the terms of this Agreement, as authorized by Owner to the extent such authorization is required pursuant to this Agreement.” *Id.* § 3.1(K).

25. Under the Agreement, Hersha was responsible for all “losses, claims, damages, costs and expenses” that “arise from (a) fraud, willful misconduct or gross

negligence of the general manager and/or any off-site employee of [Hersha], (b) the breach by [Hersha] of any provision of this Agreement, or (c) any action taken by [Hersha] which is beyond the scope of [Hersha's] authority.” Agt. § 21.1.

26. Section 21.5 of the Agreement makes clear that Hersha's liability to the County survived the termination of the Agreement. Agt. § 21.5.

27. Sections 8.2 and 8.3 of the Agreement provided strict controls over an operating account that was maintained by Hersha. The operating account was to be used solely for operating expenses. And the operating account contained only deposits by the County. Section 8.3 of the Agreement made clear that “[u]pon expiration or termination of this Agreement and once [Hersha] has been paid all funds due to [Hersha] under this Agreement, all remaining amounts in the” bank account “shall be transferred to [the County].” Agt. § 8.3.

28. Section 16.1 of the Agreement provides a list of events of default. Among the events of default, Section 16.1 provides that “[i]f either party shall be in material default in the performance of its other obligations under this Agreement, and such default continues for a period of thirty (30) days after written notice from the other party” Agt. § 16.1(B).

29. Section 16.2 of the Agreement allows a party to terminate the Agreement if “any event of default shall occur and not be cured within the applicable cure period set forth in this Agreement.” Agt. § 16.2. To terminate the Agreement

under Section 16.2, “the non-defaulting party may terminate this Agreement immediately upon delivering written notice to the defaulting party....” *Id.*

30. In addition to those specifically identified above, Hersha provided various other property management services, including generally overseeing and inspecting the condition of the Hope Center’s property. Hersha was to report any defects or other issues concerning the Hope Center property to the County.

III. Hersha Breaches the Agreement and the County Terminates.

31. As the COVID-19 pandemic subsided, and the hotel industry returned to normal, Hersha no longer viewed its relationship with the County as a valuable one. This was shown by Hersha’s disinterest in the operation of the Hope Center and failure to oversee its onsite employees. In 2023, Hersha’s neglect of its responsibilities began to impact every facet of the Hope Center’s operations.

32. On May 10, 2023, the County sent a Notice of Material Default (“First Breach Letter”).

33. In the First Breach Letter, the County notified Hersha that it failed to provide consistent and routine accounting services in violation of Section 3.1(E) of the Agreement. Specifically, Hersha failed to timely invoice federal and state agencies for Hope Center’s services provided. Frequently, the County learned of Hersha’s failure to invoice various agencies from the agencies themselves.

34. Hersha's failure to provide proper accounting services had major impacts on the County's operation of the Hope Center, as the County relies on payments from other agencies for residents' stays to pay for the operation of the Hope Center.

35. The First Breach Letter also put Hersha on notice that it breached Section 3.1(G) of the Agreement by failing to provide for the maintenance and repairs of the Hope Center's facilities. Among other things, Hersha failed to provide its cleaning staff with supplies, such as vacuum cleaners, trash bags, and cleaning items. Hersha failed to contract with a linen provider. The County also complained about holes in the Hope Center's ceilings and walls, for which Hersha had taken no corrective action. Finally, the County advised Hersha that it needed to clean the Hope Center's HVAC vent system, in which there appeared to be mold developing.

36. And finally, the First Breach Letter notified Hersha of a serious overarching concern: Hersha was employing unqualified people to work in the Hope Center and oversee the building's repairs and routine maintenance. As noted in the First Breach Letter, these staffing issues led to "multiple written complaints about the performance and temperament of current Hersha employees," which was an issue that greatly concerned the County given the vulnerability of some of the Hope Center's residents.

37. The County demanded that Hersha correct these material breaches within thirty days, including by scheduling a “deep cleaning” of the Hope Center.

38. Hersha did not address the County’s concerns. Instead, Hersha’s substandard performance continued to cause significant property damage.

39. On January 17, 2024, the County sent a Second Notice of Material Default (“Second Breach Letter”).

40. The Second Breach Letter incorporated and restated the issues in the First Breach Letter, each of which Hersha had failed to correct. The Second Breach Letter then outlined several additional breaches of the Agreement.

41. The Second Breach Letter provided an outline of specific examples of Hersha’s failure to engage qualified staff, failure to make ordinary repairs, and failure to engage in routine maintenance, and how these failures were negatively impacting the County’s ability to operate the Hope Center.

42. On December 1, 2023, the Hope Center suffered substantial property damage because of a boiler that leaked hundreds of gallons of water. The resulting damage was entirely preventable. Hersha’s general manager and maintenance employees knew that the boiler was leaking, but they failed to shut off the water or take any steps to address the issue. The boiler then pumped hundreds of gallons of water down to the 1st floor of the Hope Center.

43. Also in early December 2023, Hersha's maintenance worker was involved in a separate incident of water damage related to his failure to fix a toilet that overflowed in Room 331 of the Hope Center. Despite being alerted to an overflowing toilet in Room 331, Hersha's maintenance worker simply put towels on the floor and then left, failing to correct the issue. The overflowing toilet led to substantial flooding and property damage.

44. Then, on December 21, 2023, the Hope Center again sustained hundreds of thousands of dollars in water damage because the same Hersha maintenance worker failed to properly replace a toilet in Room 207 of the Hope Center. At around 3:30 a.m. on December 21, the County was contacted by Hersha's onsite general manager. Hersha's general manager reported that the 2nd floor hallway, and about six rooms, had flooded. The general manager further reported that the flood was caused by Hersha's maintenance worker, who failed to properly replace a toilet in Room 207. The County engaged Servpro to remediate the water damage caused by Hersha's negligence and failure to make ordinary repairs.

45. The Second Breach Letter also advised Hersha that it failed to cure its prior breach of Section 3.1(G) of the Agreement because the HVAC system was still in a state of disrepair due to Hersha's continued failure to provide preventative maintenance.

46. In the Second Breach Letter, the County advised Hersha that it was responsible for paying for the remediation and had breached Section 21.1 of the Agreement for failing to pay for the remediation.

47. The Second Breach Letter put Hersha on notice that it breached the Agreement by: (i) failing to recruit, train, direct, supervise, employ and dismiss on-site staff for the operation of the Hope Center (§ 3.1(A)); (ii) failing to “[c]ause all ordinary repairs and maintenance to the Property” (§3.1 (G)); and (iii) failing to pay for the damages caused by Hersha’s breach of the Agreement (§ 21.1).

48. The County again demanded that Hersha must cure its defaults in its performance of its obligations under the Agreement. In the Second Breach Letter, the County demanded that Hersha “take three steps in the next thirty days to cure its material breaches of the Agreement”:

First, Hersha must immediately agree to pay all costs associated with the remediation of the issues identified above including, without limitation, repairs and remediation resulting from multiple incidents of water damage and failure to maintain the Hope Center’s HVAC system. Second, the County demands that Hersha advise in writing how it intends to rectify its breach of Section 3.1(A). That writing should include discussion about personnel changes and training of Hersha’s staff at the Hope Center. And third, Hersha must also outline in writing how it intends to correct its failure to oversee preventative maintenance within Hope Center. If Hersha does not cure these defaults as outlined above within thirty (30) days, the County intends to terminate the Agreement.

49. Hersha did not take any of the three steps set forth above.

50. In immediate response to the Second Breach Letter, Hersha agreed to waive the pre-suit mediation provision in the Agreement for the “Disputes” between the parties, as that term is defined in the Agreement.

51. On February 12, 2024, the County demanded that Hersha pay the specific amount of the costs and expenses incurred to repair and remediate certain damage to the Hope Center, which was sustained during the incidents described in the Second Breach Letter. Hersha refused to pay the amount requested.

52. The next week, Hersha responded in two letters to the County’s First and Second Breach Letters by denying any liability. Hersha also claimed that it was entitled to a termination fee under the Agreement and intended to withhold “an amount reasonably necessary” to “protect” Hersha from “any damages or liability.”

53. On February 21, 2024, the County provided Hersha with a Notice of Termination and Transition Plan (“Termination Letter”). In the Termination Letter, the County explained that Hersha remained in breach of the Agreement and had taken no corrective steps.

54. The County advised Hersha that it was terminating the Agreement under Sections 16.1(B) and 16.2 of the Agreement. The County then set forth an orderly transition plan, leading to the “transition of all services and operations previously performed by Hersha to the County on or before February 29, 2024.”

55. The County also responded to Hersha's argument that Hersha was entitled to a "termination fee" under the Agreement and intended to withhold the County's money, which was in an operating account under Hersha's control. The County explained that Hersha had no good faith basis to assert a right to a termination fee under Section 17.1 of the Agreement, which provided that Hersha was only entitled to a termination fee if the County terminates the Agreement because of a sale, or change of use, of the Hope Center. If Hersha retained the County's funds, the County advised that Hersha would be in clear breach of Sections 3.1(J), 8.2, and 8.3 of the Agreement.

56. On February 26, 2024, the County sent a Second Notice of Termination and Transition Plan, which extended the termination date to provide more time for the transition of services.

57. While the parties worked to transition services, the County sent a Third Notice of Material Breach on March 12, 2024 ("Third Breach Letter").

58. The Third Breach Letter identified Hersha's continued failure to abide by its obligations under Sections 3.1(A), (G), and (K), and Section 21.1. Specifically, on March 7, 2024, the Hope Center sustained "hundreds of thousands of dollars in water damages because of [Hersha's] employees' failure to properly maintain the roof of the Hope Center and to competently address a water leak emergency in a timely fashion."

59. On March 7, 2024, shortly after midnight, a resident of the Hope Center contacted Hersha personnel, reporting that the ceiling in her bathroom was leaking and the floor was flooded. The resident reported hearing water leaking or running above her unit and expressed fear that the ceiling would cave in. The only action taken by Hersha personnel was to attempt to soak up the water with towels and place a garbage can to catch the leak. The same resident called Hersha again, this time at around 2:09 a.m., to report that the wall in her bedroom was leaking as well. Hersha did not address the issue.

60. At around 4:12 a.m. on March 7, 2024, a second resident at the Hope Center called Hersha personnel to report that the ceiling in her bathroom and bedroom was leaking and that the carpet was soaked.

61. Despite the serious and deteriorating condition, neither engineering staff, the County, nor the Hersha general manager were informed of the leak until about 7 a.m. when County personnel arrived on-site. By that time, about 12 rooms, a hallway, the ceiling of the atrium, the wall of a conference room, the donation room, and the ceiling of multiple bathrooms within the Hope Center had sustained significant damage. The severity of the damage required the relocation of five households who were staying at the Hope Center.

62. The Third Breach Letter notified Hersha that it must immediately pay all costs associated with the remediation of the issues identified. In the Third Breach

Letter the County provided further notice that “Hersha continues to fail to cause all ordinary repairs and maintenance at the Hope Center to be conducted and fails to train, direct, supervise, and employ on-site staff.” And the County notified Hersha that these recent failures “are a continuation of the same maintenance and personnel failures identified” in the First and Second Breach Letters and the First and Second Notice of Termination.

63. On April 20, 2024, the County finally expelled Hersha from the Hope Center. Despite having no contractual or legal basis to do so, Hersha has refused to return \$125,000.00 to the County, choosing instead to hold the much-needed money hostage likely to gain leverage in subsequent negotiations.

64. The parties agreed to terminate the Agreement while reserving all claims and defenses for resolution after termination.

65. Following the transition, the County identified additional breaches of the Agreement, which were identified in subsequent notices.

IV. The County Takes Over Management and Learns of Significant Damage to the Hope Center.

66. When the County took over property management of the Hope Center it learned of significant property damage caused by Hersha’s failure to make ordinary repairs, keep up with routine maintenance, and provide project management services on the County’s behalf for the renovation and refurbishment of the Hope Center. Agt. §§ 3.1(A), (G), and (H). Specifically, the County learned of mold and

water intrusion damage to the Hope Center. The Hope Center sustained mold and water intrusion damage over time. The damage should have been identified by Hersha had it been diligently and competently providing property management services. Instead, with the water intrusion and high moisture left uncorrected by Hersha, certain areas of the Hope Center building have sustained significant damage.

67. On August 7, 2024, the County sent Hersha a Fourth Notice of Material Default (“Fourth Breach Letter”). The Fourth Breach Letter advised Hersha that the County had just learned of mold and water infiltration issues in multiple locations within the Hope Center. The Fourth Breach Letter further advised Hersha that it intended to engage in destructive testing and remediation of the Hope Center.

68. On August 19, 2024, the County sent Hersha a Fifth Notice of Material Default (“Fifth Breach Letter,” together with the First, Second, Third, and Fourth Breach Letter, the “Breach Letters”). In the Fifth Breach Letter, the County notified Hersha that the County had identified elevated moisture levels, water intrusion, and mold issues since taking over the Hope Center in April 2024. These issues were caused by Hersha’s failure to timely repair and maintain the Hope Center, and act as project manager for larger capital improvements. The issues identified were caused by various defects in the Hope Center property, including defective window sealants, damage to the building’s exterior shell, the roof, and HVAC system, among others and without limitation.

69. Hersha's failures breached various provisions of the Agreement, including (i) failure to properly train, direct, supervise, and employ on-site staff in violation of Section 3.1(A) of the Agreement; (ii) failure to make ordinary repairs and engage in routine maintenance in violation of Section 3.1(G) of the Agreement, and (iii) failure to provide property management services on the County's behalf in connection with capital improvements, renovations, and refurbishment of the Property under Section 3.1(H) of the Agreement, among others.

70. Additionally, as the County identified in the First Breach Letter, the County put Hersha on notice of further issues relating to Hersha's substandard accounting practices. A County audit uncovered many misstatements in the Hope Center's financial records, caused by Hersha's deviation from Generally Accepted Accounting Principles, among other things. The audit also supports Hersha's breach of Section 3.1(E) the Agreement identified in the First Breach Letter.

71. The breaches set forth in the Breach Letters have caused, or will cause, the County to incur significant remediation costs. Additionally, the County lost revenue during periods where the Hope Center's rooms were out of circulation due to construction necessitated by property damage relating to the events discussed above. Hersha's conduct has caused the County to incur significant damages.

72. Hersha's breach of the Agreement was malicious and willful, as there is no sound basis to refuse to pay the amounts owed for the damage caused by

Hersha's agents' failure to abide by the terms of the Agreement. Nor is Hersha's refusal to return funds held in the County's operating account for the Hope Center justified under the Agreement.

73. On August 22, 2024, and despite Hersha's agreement to waive the pre-suit mediation requirements in the Agreement, the parties submitted all their "Disputes" to mediation.

74. With Hersha's having waived the pre-suit mediation requirement in Section 22.9, and the parties nonetheless mediating the case before initiation of this action, there are no conditions precedent to this action that have not been satisfied or waived.

COUNT I
(Breach of Contract)

75. The County incorporates each of the foregoing paragraphs as if re-alleged in full.

76. As discussed above, Hersha agreed to provide the County with property management services for the Hope Center.

77. Hersha's obligations and agreements were set forth in the Agreement.

78. Hersha materially breached the Agreement, including Sections 3.1(A), 3.1 (E), 3.1(G), 3.1(H), 3.1(J), 3.1(K), Section 8.2, Section 8.3, Section 9.6, Section 17.1, and Section 21.1.

79. The County performed all its obligations under the Agreement, and there are no conditions precedent to this action that have not been satisfied or waived.

80. The County has been damaged by Hersha's breaches and is entitled to recover damages in an amount to be proven at trial.

COUNT II
(Negligence and Gross Negligence)

81. The County incorporates each of the foregoing paragraphs as if re-alleged in full.

82. In the alternative, Hersha was negligent and grossly negligent in the provision of services to the County and its care of the Hope Center.

83. Hersha assumed certain duties that may be determined to not be within the Agreement, including by inspecting the Hope Center property for any defects or other issues.

84. Having undertaken to inspect the Hope Center property, and identify any issues or defects, Hersha assumed a general duty to perform the task in a reasonable manner.

85. Hersha breached its duty owed to the County by failing to properly inspect the Hope Center property, failing to identify defects and issues, and failing to report defects and issues in a timely manner to the County.

86. As a direct and proximate result of Hersha's breach of its duty owed to the County, the County has suffered significant damages in an amount to be proven at trial.

87. Hersha was grossly negligent, careless, and acted with wanton and willful disregard for the duties of care it owed to the County.

COUNT III
(Declaratory Judgment)

88. The County incorporates each of the foregoing paragraphs as if re-alleged in full.

89. A dispute has arisen between the County and Hersha regarding Hersha's obligation to transfer the remaining funds in the County's operating account, over which Hersha maintains control.

90. Sections 8.2 and 8.3 of the Agreement govern the operating account.

91. Section 8.2 provides that the funds deposited in the operating account by the County may be used only for operating expenses relating to Hersha's property management services.

92. Section 8.3 provides that "[u]pon expiration or termination of this Agreement and once [Hersha] has been paid all funds due to [Hersha] under this Agreement, all remaining amounts in the" operating account "shall be transferred to [the County]." Agt. § 8.3.

93. The County properly terminated the Agreement on April 20, 2024.

94. There are no remaining operating expenses to be paid by Hersha, and the County has paid all funds due to Hersha under the Agreement.

95. Hersha asserts that it is not required to return the remaining funds in the operating account.

96. The parties' respective positions are in direct conflict and are otherwise irreconcilable.

97. A judgment or decree of this Court will terminate the uncertainty and controversy giving rise to the action in which declaratory relief is sought.

98. The County is entitled to an order declaring that Hersha is required to transfer all funds remaining in the operating account to the County.

WHEREFORE, the County respectfully requests that the Court enter judgment against Hersha and order the following relief:

A. Judgment entered in its favor on all counts.

B. An award of compensatory, expectation, consequential, incidental, lost profit, and punitive damages to the County in an amount to be determined at trial, along with pre-and post-judgment interest and reasonable attorneys' fees, costs, and expenses incurred in this litigation.

C. Legal fees (including attorneys' fees) and costs under Section 21.1 of the Agreement and applicable law.

D. A declaration that Hersha violated the Agreement by refusing to repay County monies held in the operating account; and

E. An award of such other and further relief to the County as this Court may deem just and appropriate.

Dated: September 9, 2024

MELUNEY ALLEMAN & SPENCE, LLC

/s/ Sean A. Meluney
Sean A. Meluney (#5514)
William M. Alleman, Jr. (#5449)
Stephen A. Spence (#5392)
Matthew D. Beebe (#5980)
1143 Savannah Rd., Suite 3-A
Lewes, DE 19958
(302) 551-6740
sean.meluney@maslawde.com
bill.alleman@maslawde.com
steve.spence@maslawde.com
matt.beebe@maslawde.com

-and-

GABELL BEAVER LLC
Brian M. Gottesman (#4404)
1207 Delaware Avenue, Unit 2
Wilmington, Delaware 19806
Telephone: (302) 772-4291
bgottesman@gabellbeaver.com

Counsel to Plaintiff