E-FILED
2/2/2022 1:20 PM
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.

**IN THE CHANCERY COURT FOR DAVIDSON COUNTY, TENNESSEE
AT NASHVILLE**

STUDIO 154 LUXURY LOFTS, LLC, formerly known as NASHVILLE HONKY TONK LOFTS, LLC,	)	
Plaintiff,	)	**Case No. ___________**
v.	)	
HOWARD & MANIS ENTERPRISES LLC,	)	
Defendants.	)	

COMPLAINT

COMES NOW Plaintiff, Studio 154 Luxury Lofts, LLC ("Studio 154" or "Plaintiff"), by and through counsel, and for its Complaint against the Defendant, Howard & Manis Enterprises LLC ("Defendant"), states as follows:

THE PARTIES AND JURISDICTION

1. Plaintiff Studio 154 Luxury Lofts, LLC (formerly known as Nashville Honky Tonk Lofts, LLC) is a Tennessee Limited Liability Company with its principal place of business located at 1720 West End Ave, Suite 600, Nashville, Tennessee 37203.

2. Defendant Howard & Manis Enterprises LLC is a Tennessee Limited Liability Company with its principal place of business located at 175 Bayshore Drive, Hendersonville, Tennessee 37075.

3. The Real Property at issue in this matter is located at 154 2nd Avenue North, Nashville, Tennessee 37201 (the "Leased Building").

4. This Court has jurisdiction over this matter pursuant to Tennessee Code Annotated §§ 16-11-101-102.

5. Venue is proper in this judicial district pursuant to Tennessee Code Annotated § 20-4-101 as the cause of action arose in Davidson County.

FACTUAL ALLEGATIONS

The Lease Agreement

6. On June 21, 2016, Plaintiff and Defendant executed a lease agreement (the "Lease Agreement"), a copy of which is attached as **Exhibit A**, wherein Plaintiff leased the entire third floor (known as suite 300) and the eastern one-third (1/3) of the roof top of the Leased Building (the "Leased Premises").

7. Under the Lease Agreement, the lease period began on or before July 1, 2016 and terminates, at the earliest, twenty years from the commencement date. Ex. A at ¶¶ 1, 4. The Lease Agreement contemplates Plaintiff using the Leased Premises for "office, hotel, or residential" purposes. *Id.* at ¶ 3(a).

8. Section 2 of the Lease Agreement specifies the tiered fixed rental payments that Plaintiff must make during the lease term.

9. Section 13 of the Lease Agreement permits Plaintiff to alter and improve the Leased Premises.

10. Section 11 of the Lease Agreement requires "[Defendant] to keep in good order the roof, elevators, foundations, and exterior walls (exclusive of all glass, including plate glass, locks, hinges, doors and door frames) … [and] to maintain and keep in good order the service lines for the water, sewer and sprinkler systems, if any, for the Leased Premises." Ex. A at ¶ 11.

11. Section 11 of the Lease Agreement also states that "If [Defendant] fails to repair any reported defect in a reasonable time, then [Defendant] shall be liable for roof failure damage to fixtures, goods or any damage to the interior, provided [Plaintiff] makes reasonable efforts to prevent damage to fixtures, goods or any damage to the interior." Ex. A at ¶ 11.

Plaintiff Operates a Successful Hotel in Leased Premises

12. Pursuant to Section 13 of the Lease Agreement, Plaintiff made extensive alternations and improvements to the Leased Premises, so that Plaintiff could operate a hotel and event venue business in the Leased Premises. These alterations and improvements required a large monetary investment from Plaintiff.

13. On or around January 19, 2019, Plaintiff opened Studio 154 Luxury Hotel in the Leased Premises. Studio 154 Luxury Hotel operates a hotel on the third floor of the Leased Premises and has a private event space on the roof of the Leased Premises.

14. From January 19, 2019 until December 25, 2020, Plaintiff operated a successful hotel and event venue from the Leased Premises.

15. The Leased Premises is in an ideal downtown Nashville location that attracts many tourists as it is within walking distance of many bars, restaurants, venues, and sporting arenas. As such, the location of the Leased Premises is uniquely situated for Plaintiff's hotel and venue business.

Christmas Day Bombing and Defendant's Failure to Repair the Damage

16. On December 25, 2020, a massive explosion was set off by a suicide bomber on 2nd Avenue North in downtown Nashville.

17. The explosion caused extensive damage to several buildings, including the Leased Building.

18. The Plaintiff and Defendant were in communication via emails and text messages shortly after the bombing occurred to discuss the extent of the damage to the Leased Building and Leased Premises. Through these communications, the parties discussed in detail the extent of the damage to the Leased Building and Leased Premises.

19. In the year following the bombing, Plaintiff sent numerous emails, text messages, and written correspondence to the Defendant's representatives detailing the damage incurred and requesting a timeline of when repairs would be made.

20. These communications included a February 26, 2021 email from Plaintiff's Director of Commercial Construction, Ryan Keane, to Defendant's representative, Cason Hayes, attaching a detailed list of repairs needed and a proposed schedule for such repairs. This email and proposed schedule are attached hereto as **Exhibit B**. After Ryan Keane followed up on this proposed schedule via text message to Mr. Hayes and Defendant's building manager, Jack Marnhout, on March 3, 2021, Mr. Hayes stated that their portion of the repairs should be completed in the Leased Premises by May 1, 2021. A screenshot of this text message thread is attached as **Exhibit C**.

21. These exchanges are just examples of the numerous notices provided by Plaintiff regarding the damage and Defendant's representations that repairs would be completed.

22. Plaintiff has continuously and repeatedly reached out to Defendant's representatives to try to establish plans for Defendant to conduct the repairs it is required to complete under the Lease Agreement. However, the work has been continuously delayed and remains incomplete with no definitive completion date provided by Defendant. In fact, Plaintiff has repeatedly requested a completion schedule, yet Defendant has failed to provide one.

23. On October 8, 2021, Plaintiff's attorney sent a demand letter to who he believes to be Defendant's counsel (attached hereto as **Exhibit D**), and on October 11, 2021, Plaintiff sent a substantively similar demand letter to Defendant (attached hereto as **Exhibit E**). In the demand letters, Plaintiff identified the unrepaired damages and demanded that Defendant immediately make the following repairs: (1) repair of both elevators located on the property; (2) repair of the roof of the property; (3) repair of the entryway of the property; and (4) replacement of windows.

24. Neither Defendant nor its attorney sent a formal response to the demand letters.

25. However, approximately three weeks after the demand letters were sent, repairs to the roof and elevators began and, according to Defendant's representatives, were expected to be completed by mid-December 2021.

26. Based on repair work commencing, Plaintiff did not take further legal action against Defendant at that time.

27. Unfortunately, in the months since the demand letters were sent and some repair work began, progress has ceased, and Defendant has not taken the steps necessary to complete the repairs it is required to make under the Lease Agreement.

28. As of the date of this filing, the following repairs have yet to be completed:

a. Repair of both elevators and the stairs located on the property;

b. Repair of the roof of the property;

c. Repair of the entryway of the property.

29. Furthermore, when Defendant began making some repairs to the roof, it severely damaged the Leased Premises and Plaintiff's fixtures and goods that were located within the Leased Premises. To date, Defendant has neither finished the repairs to the roof nor has it repaired or replaced the damage it caused when it began making these repairs.

30. Additionally, because of the Defendant's delay in repairing the roof, there have been significant leaks from the roof into the Leased Premises. These leaks have caused damage to Plaintiff's fixtures, goods, and interior of the Leased Premises including, but not limited to, Plaintiff's furniture.

31. Furthermore, when Defendant began to repair the roof, it needed to remove the rooftop pedestal pavers system, furniture, and fixtures that Plaintiff had installed when it converted the Leased Premises into a hotel and event venue. Defendant agreed that if Plaintiff allowed

Defendant to remove and properly store and protect the rooftop pedestal paver system, furniture, and fixtures, Defendant would pay to reinstall them after the roof repairs were completed (the "Rooftop Decking Agreement"). Defendant removed the rooftop pedestal paver system, furniture, and fixtures to work on the roof but has since refused to replace it as it promised to do. To reinstall the rooftop pedestal paver system, furniture, and fixtures it will cost approximately $30,000, plus the cost to repair or replace the pedestal support system and any damaged furniture or fixtures due to Defendant's failure to protect them.

32. Additionally, Defendant was required by the Lease Agreement to replace the Gypcrete in the Leased Premises that was damaged during the bombing. It was necessary to replace the Gypcrete before any other repairs could take place within the Leased Premises. However, Defendant continuously represented that the Gypcrete repairs were being delayed. Plaintiff and Defendant reached an agreement wherein Plaintiff agreed to pay for and oversee the replacement of the Gypcrete within the Leased Premises, and Defendant agreed to reimburse Plaintiff for those costs (to the extent this arrangement is not covered by the Lease Agreement, this arrangement will be referred to as the "Gypcrete Agreement"). Replacing the Gypcrete cost approximately $7,500. As of the date of this filing, Defendant has failed to reimburse Plaintiff for these costs, despite repeated requests.

33. After more than a year since the bombing damaged the Leased Building, there is still extensive unrepaired damage that prohibits Plaintiff from operating its hotel and event space business in the Leased Premises. Indeed, it is not possible to use the Leased Premises, much less operate the business contemplated by the Lease Agreement with no front entry access to the Leased Building, non-functioning elevators, and a damaged roof.

34. Due to the ongoing delays in repairs, Plaintiff has lost all revenue and profits that it would have earned over the past nearly thirteen months.

35. Additionally, Plaintiff has and continues to suffer monetary losses due to the water damage to its personal property caused by Defendant's failure to complete timely repairs to the roof and due to Defendant's refusal to reimburse Plaintiff for the Gypcrete replacement Plaintiff had to complete itself, despite this repair falling under Defendant's duties under the Lease Agreement.

36. Furthermore, Plaintiff will suffer additional monetary losses should it be forced to replace the rooftop pedestal paver system, furniture, and fixtures that Defendant removed, but failed to repair despite its agreement to do so.

37. Finally, Plaintiff has suffered and continues to suffer the loss of all good will and reputational value that it would have earned if it had been able to operate its business over the last year.

COUNT ONE: SPECIFIC PERFORMANCE OF THE LEASE AGREEMENT

38. Plaintiff incorporates by reference all allegations in all other sections of this Complaint as if fully set forth herein.

39. The Lease Agreement is a valid and enforceable contract between Plaintiff and Defendant, and Plaintiff has performed its obligations under the Lease Agreement.

40. Defendant's maintenance, repairs, and upkeep of the Leased Building and Leased Premises, as required by Section 11 of the Lease Agreement, are necessary for Plaintiff to be able to run its hotel and event venue business contemplated by the Lease Agreement.

41. The location of the Leased Building and Leased Premises holds particular, unique value to Plaintiff's business of operating a hotel and event venue.

42. As a result of Defendant's breach of the Lease Agreement (which is detailed further in Count Four of this Complaint), Plaintiff has suffered and continues to suffer immediate and

irreparable injury because Plaintiff cannot operate its hotel and event venue business in the Leased Premises until the necessary repairs are made.

43. Due to the particularly unique nature of the real property at issue, monetary damages would be an inadequate remedy for Defendant's breach of the Lease Agreement, which has caused Plaintiff to lose all ability to operate its business since December 25, 2020.

44. Therefore, Plaintiff seeks a Court order requiring Defendant's specific performance of its obligations to repair the Leased Building and Leased Premises.

45. Plaintiff is entitled to recover its attorneys' fees and court costs under Section 21 of the Lease Agreement.

COUNT TWO: BREACH OF CONTRACT—ROOFTOP DECKING AGREEMENT

46. Plaintiff incorporates by reference all allegations in all other sections of this Complaint as if fully set forth herein.

47. The Rooftop Decking Agreement is a valid and enforceable contract between Plaintiff and Defendant wherein Plaintiff agreed to allow Defendant to remove the rooftop pedestal paver system, furniture, and fixtures, and securely and safely store same, in exchange for Defendant's agreement to pay for them to be reinstalled.

48. Defendant has materially breached the Rooftop Decking Agreement by refusing to reinstall the rooftop pedestal paver system, furniture, and fixtures or pay for it to be reinstalled. Defendant further breached the Rooftop Decking Agreement by failing to properly store these items, thereby causing damage to same.

49. As a result of Defendant's breach of the Rooftop Decking Agreement, Plaintiff has suffered damages and continues to suffer damages in an amount that will be proven at trial.

COUNT THREE: BREACH OF CONTRACT—GYPCRETE AGREEMENT

50. Plaintiff incorporates by reference all allegations in all other sections of this Complaint as if fully set forth herein.

51. To the extent that the arrangement regarding Gypcrete replacement is not covered by the Lease Agreement, the Gypcrete Agreement is a valid and enforceable contract between Plaintiff and Defendant wherein Plaintiff agreed to pay for the replacement of the Gypcrete in the Leased Premises in exchange for Defendant reimbursing Plaintiff for the cost to replace the Gypcrete.

52. Plaintiff paid for the replacement of Gypcrete as agreed between the parties.

53. Defendant has materially breached the Gypcrete Agreement by failing to reimburse Plaintiff for the replacement and repair of the Gypcrete.

54. As a result of Defendant's breach, Plaintiff has suffered damages and continues to suffer damages because it has not been reimbursed the approximately $7,500 that it paid to replace the Gypcrete.

COUNT FOUR: BREACH OF CONTRACT—LEASE AGREEMENT

55. Plaintiff incorporates by reference all allegations in all other sections of this Complaint as if fully set forth herein.

56. The Lease Agreement is a valid and enforceable contract between Plaintiff and Defendant, and Plaintiff has performed its obligations under the Lease Agreement.

57. Defendant has materially breached the Lease Agreement by, among other things, failing to keep the roof, elevators, foundations, and external walls in good order and failing to make timely repairs to the Leased Building, including its roof, elevators, foundations, and external walls, as required by the Lease Agreement.

58. As a result of Defendant's breach of the Lease Agreement, Plaintiff has suffered damages and continues to suffer damages because Plaintiff cannot operate the hotel and event venue business contemplated by the Lease Agreement in the Leased Premises until the necessary repairs are made.

59. Plaintiff is entitled to recover its damages resulting from Defendant's breach, in addition to its attorneys' fees and court costs under Section 21 of the Lease Agreement.

COUNT FIVE: NEGLIGENCE

60. Plaintiff incorporates by reference all allegations in all other sections of this Complaint as if fully set forth herein.

61. Defendant owed Plaintiff duties of reasonable care and competence in performing the repairs and services required by the Lease Agreement and the Rooftop Decking Agreement.

62. Defendant breached its duties to Plaintiff by the acts and omissions alleged above, which include, but are not limited to, damaging the Leased Premises and Plaintiff's fixtures and goods that were located within the Leased Premises when it began repairs and by failing to properly remove, store, and protect Plaintiff's rooftop pedestal paver system, furniture, and fixtures.

63. As an actual and proximate result of Defendant's negligence, Plaintiff has been and will continue to be damaged and is entitled to monetary relief in an amount to be proven at trial, including costs to repair and replace all fixtures, goods, and other items damaged by Defendant's negligence.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Studio 154 Luxury Lofts, LLC prays for a judgment in its favor and against Defendant Howard & Manis Enterprises LLC for the following relief:

1. Specific performance of the Lease Agreement requiring Defendant to make the necessary repairs to the Leased Building and the Leased Premises so as to allow Plaintiff to operate the business contemplated in the Lease Agreement in the Leased Premises;
2. In the alternative, an award of damages for Defendant's breach of the Lease Agreement in an amount to be proven at trial;
3. An award of damages for Defendant's breach of the Rooftop Decking Agreement in an amount to be proven at trial;
4. An award of damages for Defendant's breach of the Gypcrete Agreement in an amount to be proven at trial;
5. An award of damages for Defendant's negligence in an amount to be proven at trial;
6. An award of Plaintiff's court costs and attorneys' fees pursuant to Section 21 of the Lease Agreement; and
7. Such other and further relief as the Court may deem just and equitable.

Respectfully submitted,

/s/ Jeff H. Gibson

Jeff H. Gibson (TN BPR # 26321)
Bass, Berry & Sims PLC
150 Third Avenue South, Suite 2800
Nashville, Tennessee 37201
Telephone (615) 742-6200
Facsimile (615) 742-6293
jgibson@bassberry.com

Attorney for Plaintiff Studio 154 Luxury Lofts, LLC