

IN THE CIRCUIT COURT FOR DORCHESTER COUNTY, MARYLAND

COMMISSIONERS OF CAMBRIDGE :

410 Academy Street :

Cambridge, Maryland 21613 :

Plaintiff :

v. :

Case No. _____

CAMBRIDGE WATERFRONT :

DEVELOPMENT, INC. :

306 High Street :

Cambridge, Maryland 21613 :

and :

CWDI HOLDINGS, LLC :

5623 Bucktown Road :

Mailbox 6 :

Cambridge, Maryland 21613 :

and :

CAMBRIDGE SHIPYARD :

FACILITY, INC. D/B/A YACHT :

MAINTENANCE :

COMPANY :

101 Hayward Street :

Cambridge, Maryland 21613 :

Defendants. :

COMPLAINT AND JURY DEMAND

COMES NOW, Plaintiff Commissioners of Cambridge, by and through undersigned counsel, and files this Complaint against the Defendants Cambridge Waterfront Development, Inc., CWDI Holdings, LLC, and Cambridge Shipyard Facility, Inc. d/b/a Yacht Maintenance Company, and for cause states as follows:

INTRODUCTION

Plaintiff Commissioners of Cambridge (the “City”) and Defendant Cambridge Waterfront Development, Inc. (“CWDI”) entered into a Transfer Agreement in June 2021, whereby the City conveyed more than 11 acres of valuable waterfront property to CWDI for purposes of development of the Cambridge waterfront, subject to the provisions of a Transfer Agreement and covenants.

After the transfer occurred, CWDI undertook two significant transactions that are in violation of CWDI’s covenants with the City. First, in March 2022, CWDI created a separate holding company, Defendant CWDI Holdings, LLC, and transferred the property to the holding company. This transfer violated the plain language of the covenants in the Transfer Agreement, which prohibit a transfer except to a hotel or marina developer, and which prohibit any conveyances until a definitive agreement has been entered into with a developer following a public request for proposal process.

The City has learned that CWDI Holdings, LLC intends to immediately convey part of the property on or around May 1, 2024, to Defendant Yacht Maintenance Company, a company based in Cambridge that services and repairs boats and yachts and is owned by the brother-in-law of a former CWDI board member.

Second, CWDI has appointed itself as project developer in breach of the Transfer Agreement, which requires a public request for proposal (“RFP”) process. CWDI has not undertaken the required public RFP process.

The City has suffered and will continue to suffer immediate, ongoing, and irreparable harm by CWDI’s breach of the Transfer Agreement and covenants. In addition to declaratory relief, the City seeks injunctive relief enjoining CWDI and CWDI Holdings from transferring

property to Yacht Maintenance Company or any other entity in violation of its covenants with the City and enjoining CWDI from acting as master developer.

JURISDICTION AND VENUE

1. This Court has jurisdiction under Courts & Judicial Proceedings § 6-102 through § 6-103.

2. Venue is proper pursuant to Courts & Judicial Proceedings § 6-201.

PARTIES

3. Plaintiff Commissioners of Cambridge (the “City”) is the aggrieved party and is a municipal corporation organized under Article XI of the Maryland Constitution.

4. Defendant Cambridge Waterfront Development, Inc. (“CWDI”) is a corporation in good standing in the State of Maryland with its principal place of business located at 306 High Street, Cambridge, Maryland, 21613.

5. Defendant CWDI Holdings, LLC (“CWDI Holdings”) is a limited liability company in good standing in the State of Maryland with a business address of 5263 Bucktown Road, Mailbox 6, Cambridge, Maryland, 21613.

6. Defendant Cambridge Shipyard Facility, Inc. d/b/a Yacht Maintenance Company is a corporation in good standing in the State of Maryland with its principal place of business located at 101 Hayward Street, Cambridge, Maryland 21613.

FACTS COMMON TO ALL COUNTS

Creation of CWDI

7. The City and Dorchester County, Maryland (the “County”) entered into a Memorandum of Understanding (“MOU”), dated April 4, 2018, for purposes of collaboration and cooperation in the comprehensive planning and redevelopment of certain properties along

and adjacent to the Cambridge waterfront extending from the Choptank River Bridge Fishing Pier/Gateway to Cambridge Creek (the “Waterfront Planning Envelope”).

8. The City and County agreed to facilitate redevelopment of the Waterfront Planning Envelope through a public-private partnership. The purposes of this partnership included, but were not limited to, supporting public infrastructure to serve the needs of citizens and businesses in the City and County; generating business, housing, and employment opportunities; expanding the tax base and local revenues; and promoting public waterfront access. (MOU at 1).

9. The City and County agreed to form an independent, non-profit development entity: Cambridge Waterfront Development, Inc. (“CWDI”). (MOU ¶ 2(A)).

10. CWDI was charged with planning, promoting, and facilitating redevelopment and mixed utilization of certain properties within and adjacent to the Waterfront Planning Envelope.

11. In furtherance of the MOU, CWDI filed its Articles of Incorporation with the State of Maryland on July 9, 2018.

Transfer of the Property to CWDI

12. In 2014, the State of Maryland transferred 11.826 acres of waterfront land to the City (the “Property”).

13. The City became the fee simple owner of the Property by virtue of a Quitclaim Deed dated August 15, 2014 and recorded among the Land Records of Dorchester County, Maryland at Liber A.J.C. No. 1221, folio 309.

14. In November 2019, the City and CWDI entered into a Letter of Intent setting forth CWDI’s intention to accept a transfer of the Property from the City in furtherance of CWDI’s mission, subject to the approval of the State of Maryland.

15. The Property is an integral parcel within the 40-acre Waterfront Planning Envelope.

16. After the Letter of Intent was signed, and throughout 2020 and early 2021, CWDI conducted due diligence and negotiated with the City regarding the terms of a definitive agreement pertaining to the transfer.

17. On June 23, 2021, the City and CWDI executed the Transfer Agreement, whereby the City agreed to transfer the Property to CWDI. (Ex. 1, Transfer Agreement).

18. The Property that was transferred to CWDI pursuant to the Transfer Agreement included (1) approximately 7.3 acres of land subject to a lease agreement between the City and Sailwinds West, Inc.; (2) approximately 2.6 acres of land subject to a lease agreement between the City and Defendant Yacht Maintenance Company, Inc.; and (3) approximately 0.431 acres of land that was substantially improved by the City with upgrades to the deep-water wharf and adjacent promenade. (Ex. 1, Transfer Agreement, ¶¶ 1-2).

19. The Transfer Agreement included a Concept Master Plan Draft (the “Master Plan”) prepared by BCT Design Group. (Ex. 1, Transfer Agreement, at 1 and Exhibit B). The Master Plan reflects a plan for a 20,000 square foot boutique hotel.

20. The City and CWDI executed an Addendum to the Transfer Agreement on November 15, 2021, and a Second Addendum to the Transfer Agreement on December 29, 2021.

21. CWDI agreed that “no portion of the Property may be transferred unless the proposed use of the subject parcel(s) is ‘shovel ready’”:

Any subsequent transfer of the Property, in whole or in part, shall be subject to protections to ensure strict compliance with the State Mandates and Covenants, and no portion of the Property may be transferred unless the proposed use of the subject parcel(s) is "shovel ready" (with permits, financing and groundbreaking within 90-days of closing) and consistent with the approved Master Plan for the

Waterfront Planning Envelope, as amended with the passage of time, advancements in knowledge and wherewithal.

(Ex. 1, Transfer Agreement, ¶ 6(e)).

22. In addition to the covenants, restrictions, and promises set forth in the Transfer Agreement, the City and CWDI agreed to four additional covenants. (Ex. 1, Transfer Agreement, ¶ 6(f) and Exhibit C).

23. The City and CWDI agreed that CWDI is to contract with a master developer or project developers, which will be subject to a request for proposals process:

The parcels within the Waterfront Planning Envelope will be subject to a Request for Proposals (“Developer RFP”) process seeking a master developer and/or combination of individual project developers for all or portions of the Waterfront Planning Envelope, exclusive of any portions dedicated to public use and amenities under the Master Plan, which Master Plan shall be incorporated in the Developer RFP.

(Ex. 1, Transfer Agreement, Exhibit C, ¶ 2).

24. Details of the RFP process were included in the Transfer Agreement, including that CWDI would administer the RFP process for 120 days after the RFP issuance date and a summary of the proposal would be made public after a developer was selected. (Ex. 1, Transfer Agreement, Exhibit C, ¶ 3).

25. The City and CWDI also covenanted that CWDI could not transfer the Property until a “definitive agreement” was reached with a developer:

CWDI will not transfer, subdivide or encumber all or any portion of the Property until a definitive agreement with the initial selected developer(s) resulting from the Developer RFP process is entered into or the Outside Date, whichever shall first occur.

(Ex. 1, Transfer Agreement, Exhibit C, ¶ 4).

CWDI's transfer of the Property

26. In March 2022, just three months after receiving the Property, CWDI created Defendant CWDI Holdings, LLC and transferred the City-donated Property to CWDI Holdings.

27. The creation of CWDI Holdings and transfer of the Property to CWDI Holdings violated the plain language of the covenants set forth in the Transfer Agreement, which prohibit any transfer except to a hotel or marina developer.

28. This transfer to CWDI Holdings violated the covenant providing that CWDI will not transfer all or any portion of the property until a definitive agreement is entered with a developer selected through an RFP process. (Ex. 1, Transfer Agreement, Exhibit C, ¶ 4). CWDI has not undertaken the RFP process to select a developer.

29. CWDI has repeatedly represented that a hotel deal is “imminent” but has refused to provide the City with any verification of this.

30. An “imminent” hotel deal is highly unlikely. Any established hotelier would conduct significant due diligence, including major inquiries to the City concerning zoning, tax increment financing, and the covenants and property transfers. No such inquiries to the City have occurred.

31. Any hotelier would immediately recognize that CWDI's transfer of this property to its own wholly-owned holding company violated the plain language of its covenants to the City.

32. The City has learned that CWDI Holdings intends to convey 2.6 acres of the Property to Defendant Yacht Maintenance Company on or around May 1, 2024.

33. Yacht Maintenance Company is owned by George Robinson, who is the brother-in-law of former CWDI board member Jeff Powell.

34. Defendants CWDI and CWDI Holdings are now contending that this agreement with Yacht Maintenance Company satisfies all conditions in the Transfer Agreement.

35. However, this deal to convey part of the Property to Yacht Maintenance Company does not justify transfer of the Property to a holding company created by the CWDI in violation of the Transfer Agreement. The Property was initially transferred from CWDI to CWDI Holdings, which is neither a hotel nor a marina developer, and was done without a definitive agreement being entered into with a developer following an RFP process.

36. This *ultra vires* transfer not only clouds title to the Property and violates CWDI's contractual obligations but it represents a major failure of transparency by CWDI to the public and accountability to the City, whose economic development interests are supposed to be served by CWDI.

CWDI appoints itself as master developer

37. The Transfer Agreement requires that the parcels in the Waterfront Planning Envelope are to be subject to a Request for Proposals process "seeking a master developer and/or combination of individual project developers" for the Waterfront Planning Envelope, other than "any portions dedicated to public use and amenities under the Master Plan." (Ex. 1, Transfer Agreement, Exhibit C, ¶ 2).

38. CWDI was required to "use its best efforts to prepare and issue said Developer RFP on or before Thursday, July 15, 2021. (*Id.* ¶ 3).

39. CWDI was required to "administer the RFP process for a period of one hundred twenty (120) days after the RFP Issuance Date and following such 120-day period CWDI shall have the right in its sole and absolute discretion to select a developer(s) and to negotiate in good faith a definitive agreement for all or such portion of the Waterfront Planning Envelope,

provided that such selected developer(s) submission is substantially consistent with the approved Master Plan and the uses described therein.” (*Id.*).

40. After a developer(s) is selected through the RFP process, CWDI must “announce publicly the selection within a summary of the proposal and enter into negotiations for a definitive final agreement with the selected developer(s).” (*Id.*).

41. The covenants are unambiguous that CWDI must issue a public request for proposals for a master developer and to make public a summary of the RFP. CWDI has done neither.

42. CWDI has violated these covenants as, in the nearly three years since the Transfer Agreement was executed, CWDI has not administered an RFP for a master developer for the Waterfront Planning Envelope.

43. In October 2023, the City raised with CWDI its failure to comply with the covenants and begin the RFP process to select a master developer. CWDI did not provide any satisfactory answers regarding this failure to comply.

44. It is clear that CWDI had no intention to comply with the covenant requirement of a transparent RFP process.

45. Instead, CWDI has recently either selected itself as master developer or selected Yacht Maintenance Company as the master developer for that portion of the Property involving boat maintenance.

46. CWDI’s selection of itself or Yacht Maintenance Company violates the covenants as it failed to follow the RFP process required in the Transfer Agreement.

COUNT I
Breach of Contract
(Plaintiff v. Defendant Cambridge Waterfront Development, Inc.)

47. Plaintiff re-alleges and incorporates by reference all the factual allegations herein as if specifically listed herein again.

48. The City and CWDI executed the Transfer Agreement on June 23, 2021, whereby the City agreed to transfer more than 11 acres of Property to CWDI. (Ex. 1, Transfer Agreement).

49. The City and CWDI executed an Addendum to the Transfer Agreement on November 15, 2021, and a Second Addendum to the Transfer Agreement on December 29, 2021.

50. The City and CWDI agreed that “[t]he parcels within the Waterfront Planning Envelope will be subject to a Request for Proposals (“Developer RFP”) process seeking a master developer and/or combination of individual project developers for all or portions of the Waterfront Planning Envelope...” (Ex. 1, Transfer Agreement, Exhibit C, ¶ 2).

51. CWDI was required to “use its best efforts to prepare and issue said Developer RFP on or before Thursday, July 15, 2021.” (*Id.* ¶ 3).

52. CWDI was required to “administer the RFP process for a period of one hundred twenty (120) days after the RFP Issuance Date and following such 120-day period CWDI shall have the right in its sole and absolute discretion to select a developer(s) and to negotiate in good faith a definitive agreement for all or such portion of the Waterfront Planning Envelope, provided that such selected developer(s) submission is substantially consistent with the approved Master Plan and the uses described therein.” (*Id.*).

53. After a developer(s) is selected through the RFP process, CWDI must “announce publicly the selection within a summary of the proposal and enter into negotiations for a definitive final agreement with the selected developer(s).” (*Id.*).

54. CWDI is prohibited from transferring all or a portion of the Property until there is a definitive agreement with the selected developer(s) resulting from the RFP process. (*Id.* ¶ 4).

55. CWDI breached the Transfer Agreement by transferring the Property to a holding company it created, CWDI Holdings, LLC, in March 22, 2022. This was a breach of the covenants because CWDI Holdings is neither a hotel or marine developer and the requirements for an RFP process, including announcing publicly the selection of the master developer pursuant to the RFP process, had not been met.

56. CWDI has further breached the Transfer Agreement by failing to undertake a RFP process for selecting a master developer and following the requirements for that process. (Ex. 1, Transfer Agreement, Exhibit C, ¶¶ 2-3). CWDI instead named either itself or Yacht Maintenance Company as the master developer in violation of the covenants set forth in Exhibit C of the Transfer Agreement.

57. The City has performed all of its obligations under the Transfer Agreement.

58. As a proximate result of Defendant CWDI’s breaches, the City has suffered and will continue to suffer substantial and irreparable harm, including, but not limited to harm to its planning and redevelopment plans and opportunities.

WHEREFORE, Plaintiff Commissioners of Cambridge sues the Defendant Cambridge Waterfront Development, Inc. for cause and respectfully requests that the Court (a) Issue a judgment against Defendant CWDI in an amount exceeding seventy-five thousand dollars (\$75,000), plus interest and costs; (b) Issue temporary, preliminary, and permanent injunctive

relief enjoining Defendant CWDI Holdings, LLC from conveying the Property or any part of the Property to Defendant Yacht Maintenance Company or any other entity; and (c) Award Plaintiff such other relief as the Court deems just and proper.

COUNT II

Declaratory Judgment – Conveyance of the Property (Plaintiff v. Defendants Cambridge Waterfront Development Inc., CWDI Holdings, and Yacht Maintenance Company)

59. Plaintiff adopts and incorporates by reference the allegations contained in all of the paragraphs of this Complaint as though set forth fully herein.

60. This declaratory judgment action is brought pursuant to Md. Code, Cts. & Jud. Proc. §§ 3-406 and 3-407 for the purpose of determining questions of actual controversy between the parties and terminating uncertainty and controversy giving rise to this proceeding.

61. Defendant CWDI Holdings has undertaken to convey part of the Property to Defendant Yacht Maintenance Company.

62. Defendants claim that CWDI Holdings' conveyance of part of the Property to Yacht Maintenance Company is permissible.

63. Plaintiff claims that CWDI Holdings cannot convey the Property or any part of the Property to Yacht Maintenance Company or any other entity because the initial transfer of the Property from CWDI to CWDI Holdings violated the Transfer Agreements and covenants therein.

64. There therefore exists an actual controversy regarding a justiciable issue between the Plaintiff and Defendants within the jurisdiction of this Court regarding the legality of the conveyance of part of the Property to Yacht Maintenance Company.

65. Under §§ 3-401 through 3-415 of the Courts and Judicial Proceedings Article, Plaintiff is entitled to a judgment declaring the rights and responsibilities of the Plaintiff and the Defendants, and further settling the legal relations, rights, and responsibilities of the parties.

WHEREFORE, Plaintiff Commissioners of Cambridge sues the Defendants Cambridge Waterfront Development, Inc., CWDI Holdings, LLC, and Yacht Maintenance Company for cause and respectfully requests that the Court (a) Issue an Order declaring that it is illegal for Defendant CWDI Holdings, LLC to transfer the Property or any part of the Property to Defendant Yacht Maintenance Company or any other entity; (b) Issue temporary, preliminary, and permanent injunctive relief enjoining CWDI Holdings, LLC from conveying the Property or any portion of the Property to Yacht Maintenance Company or any other entity; (c) Award Plaintiff its costs and expenses in this litigation; and (d) Award Plaintiff such other relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a jury trial as to all claims so triable.

Respectfully submitted,

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