

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

TRIAL COURT
SUPERIOR COURT DEPT.

_____)
 DDJB Real Estate Holdings, LLC,)
) Plaintiffs)
 v.)
)
 The Church of Scientology of Boston, Inc.,)
) Defendant)
 _____)

Civil Action No.:

14-2892B

COMPLAINT

PARTIES

1. Plaintiff DDJB Real Estate Holdings, LLC ("DDJB") is a Massachusetts limited liability corporation with a principal address of 5 Jackson Avenue, Unit 2, Boston, Massachusetts.

2. Defendant The Church of Scientology of Boston, Inc. ("The Church") is a M.G.L. c. 180 religious corporation with a principal address of 448 Beacon Street, Boston, Massachusetts.

FACTS

3. DDJB holds title to 112-114 Gerard Street, Boston, Massachusetts, pursuant to a deed recorded at the Suffolk County Registry of Deeds on October 25, 2013 at Book 52282, Page 142 ("the Property").

4. On or about March 27, 2014, The Church signed a letter of intent to lease entire second floor of the Property ("the Premises") for a five year term commencing on or before July 1, 2014 in exchange for base rent calculated at \$11.00 per rentable square foot ("rsf") with an annual escalation of \$.40 per rsf ("March LOI"). The March LOI

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called for DDJB to renovate the interior of the Premises based upon a mutually agreeable floor plan, with the costs of construction to be paid by The Church in addition to a mutually agreed upon construction fee. The March LOI was signed by Graham Parker ("Parker"), President of The Church. A copy is attached hereto as Exhibit A.

5. Robert Quinn ("Quinn") signed the March LOI as Manager of DDJB on March 29, 2014.

6. Quinn forwarded a proposed lease to The Church via its real estate broker on April 1, 2014.

7. On April 14, 2014, The Church submitted a second letter of intent for the Premises ("April LOI") proposing terms significantly different from those set forth in the March LOI. In relevant part, the April LOI sought to (1) increase the amount of space to be rented by The Church from 13,306 rsf to 17,586 rsf by incorporating a portion of the first floor; (2) shorten the term of the lease from five years to three years; (3) establish for base rent at \$13,000 per month with no increase over the term of the lease; and (4) provide The Church with a two year option to renew the lease. A copy of the April LOI is attached hereto as Exhibit B.

8. DDJB protested The Church's efforts to re-negotiate the terms of the binding March LOI.

9. On April 16, 2014, DDJB rejected the April LOI but agreed to modify the terms of the March LOI as follows: (1) in addition to leasing the entire second floor to The Church, DDJB agreed to hold the first floor rear space (3,981 rsf) off the market for six months from lease signing for the potential use of The Church; (2) the term of the lease was reduced to three years; and (3) the projected occupancy date was extended to

approximately August 1, 2014 to provide sufficient time for DDJB to build out the Premises to the Church's specifications.

10. In accordance with and in reliance upon the March LOI as amended, DDJB has not marketed the entire second floor of the Property for lease since at least March 27, 2014 and the first floor rear space of the Property since at least April 16, 2014.

11. DDJB forwarded a revised lease to The Church on April 22, 2014, incorporating the amendments to the March LOI. Counsel to The Church made additional changes which resulted in a final version of the lease on or about May 6, 2014 ("Lease"). A copy of the Lease is attached hereto as Exhibit C.

12. At that time, the Parties did not know the cost or the timing of the renovation because The Church had not yet informed DDJB of its precise needs and, as a result, the construction project had not yet been put out to bid. The Lease states that The Church shall reimburse DDJB "for its actual, competitively bid expenses plus [DDJB's] mutually agreed upon mark-up of 10% overhead and profit." Exhibit C, Article II(C).

13. The Church informed DDJB that it would face substantial penalties if it did not vacate its current space during the summer of 2014 and that it needed to complete and move into the renovation as soon as possible.

14. Based on the Church's assurances that the signed Lease would be forthcoming and in an effort to streamline the process in light of The Church's urgent need to occupy the Premises, DDJB in good faith commenced work on the renovation with its architect and engineer, engaged a general contractor, and began the permitting process before receiving the signed Lease or the required security and construction deposits.

15. The original rough estimate for the renovation was approximately \$400,000, which the Parties were able to reduce to approximately \$300,000 based on The Church's decision not to make structural changes to the Premises and to proceed with lower budget fit and finish items, such as carpeting and lighting.

16. On June 5, 2014, more than two months after The Church submitted the March LOI, Parker informed DDJB that the estimated cost of the renovation had to be slashed down to a bare bones price not to exceed \$150,000 to \$200,000 or The Church's national management would not approve the Lease.

17. The Church indicated that in order to stay within its budget it needed a low end or not fully finished office. Parker requested that The Church be given leave to supply all doors, install the tile and flooring for the sauna area, bring in its own HVAC equipment, and have its parishioners do work such as painting, flooring, electrical, carpenters, and locksmith for a reduced or no cost.

18. Although the project described by Parker was far from the renovation originally contemplated by the Parties, DDJB expressed a willingness to work with The Church to stay within the \$150,000 to \$200,000 and to allow the Church to supply items and have its own subcontractors work at the Premises. DDJB even offered to let The Church build out the Premises using its own general contractor, but The Church did not accept its offer.

19. DDJB made it clear to The Church that it required a complete list of the materials to be supplied by The Church and the specifics for the finish package for the Premises in order to estimate the cost of the stripped down renovation and guarantee a price. DDJB offered to put The Church in touch with its architect to work out the details to develop an accurate construction plan and budget.

20. Despite repeated requests, The Church failed to provide the necessary information to DDJB or its architect.
21. The Church did not sign the Lease until July 11, 2014. Exhibit C.
22. The Church paid the \$50,000 construction deposit and \$36,591.50 security deposit required by the Lease.
23. Upon receipt of the executed Lease and deposits, DDJB paid a commission of \$60,000 to The Church's real estate broker.
24. DDJB has spent more than the \$50,000 construction deposit in architectural fees, engineering fees, legal fees, permitting costs, and other expenses associated with the renovation on behalf of The Church.
25. Due to The Church's delay of more than two months in signing the Lease, DDJB informed The Church that it would require additional time to complete the renovation and the Premises could not be completed by August 1, 2014. The Church did not object to the projected occupancy date of October 1, 2014.
26. On August 13, 2014, DDJB received a purported Notice of Termination of Lease from The Church's counsel, purporting to terminate the Lease on the basis that the renovation of the Premises was not yet complete and informing DDJB that the Church had decided not to proceed with the Lease "in large part due to the stench present in the area surrounding the leased premises caused by the transfer [trash] facility which is nearby." A copy of the August 13, 2014 correspondence is attached hereto as Exhibit D.
27. On August 14, 2014, DDJB's counsel placed The Church on written notice that DDJB deemed the Church to be in default of its obligations pursuant to Article XXI of the Lease. Further, DDJB noted that representatives of The Church were well aware of

the trash facility prior to signing the Lease and the Parties had agreed to an October 1, 2014 occupancy date as a result of The Church's delay in signing the lease, which delayed construction of the renovation. A copy of the August 14, 2014 letter is attached hereto as Exhibit E.

28. The Church has made no effort to cure its default of the Lease.

29. Article XXI of the Lease provides for DDJB to recover reasonable attorney's fees and costs associated with an action to enforce the Lease.

COUNT ONE (Breach of Contract)

30. The Plaintiff repeats and realleges the allegations of paragraphs 1-29 of this Complaint as if fully set forth herein.

31. The Parties entered into a binding Lease on July 11, 2014.

32. The Church is in default of the Lease provisions as described herein and has failed to cure its default despite written notice from DDJB.

33. The Church has attempted to terminate the Lease without paying the costs of the renovation of the Premises, occupying the Premises, or paying rent.

34. The Church's actions and inactions as set forth herein constitute material breaches of the Lease.

35. As a result of The Church's material breaches of the Lease, DDJB has suffered and continues to suffer damages.

**COUNT II (Breach of the Covenant
Of Good Faith and Fair Dealing)**

36. The Plaintiff repeats and realleges the allegations of paragraphs 1-35 of this Complaint as if fully set forth herein.

37. The Parties entered into a binding Lease on July 11, 2014.

38. Pursuant to Massachusetts law, every contract is deemed to contain a covenant of good faith and fair dealing.

39. DDJB acted in good faith throughout its dealings with The Church as set forth herein.

40. The Church breached the covenant of good faith and fair dealing by failing and refusing in bad faith to perform its obligations under the Lease, attempting to terminate the Lease, and making knowingly false statements in an attempt to justify its material breaches of the Lease.

41. The Church engaged in the misconduct described herein despite knowledge that DDJB has gone to considerable effort and expense on behalf of The Church and has not marketed the second floor or the first floor rear space for lease for more than six months.

42. As a result of The Church's breach of the covenant of good faith and fair dealing, DDJB has suffered and continues to suffer damages.

WHEREFORE, the Plaintiff seeks the following relief:

1. The Court award compensatory damages, plus interest, costs, and reasonable attorney's fees; and
2. Award such other relief as is proper.

The Plaintiff claims a trial by jury upon all claims so triable.

DDJB Real Estate Holdings, LLC,
By their attorneys,



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Dated: September 11, 2014