

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK

2018-CP-46-03726

THE GRAPEVINE OF RIVERWALK, INC.,

Plaintiff,

v.

RIVERWALK RIVER DISTRICT
BUILDING 6, LLC, MARK S. MATHER,
GRH DEVELOPMENT RESOURCES, LLC,
THE GREENS OF ROCK HILL, LLC, and
ASSURED ADMINISTRATION, LLC

Defendants.

**AMENDED
ORDER ON RULE 59 MOTION AND
FINAL JUDGMENT****RECEIVED**
Apr 29 2022
SC Court of Appeals

THIS MATTER was tried to a jury at the August 23, 2021 session of Common Pleas Court for York County, South Carolina, Sixteenth Judicial Circuit, with the Honorable William A. McKinnon, presiding. Christian Staples and Steven Meckler served as trial counsel for Plaintiff, and Keith Martens and Steve Dluzneski served as trial counsel for Defendants.

At the conclusion of the trial, on August 27, 2021, the jury returned a verdict, and the Jury Verdict Form was filed on February 17, 2022. The jury determined that Defendant Riverwalk River District Building 6, LLC breached its lease agreement with Plaintiff in regards to the lease's option to purchase, and that Plaintiff is entitled to recover the sum of \$221,700.00 as a result. The jury also determined that Defendant Riverwalk River District Building 6, LLC breached its lease agreement with Plaintiff in regards to Plaintiff's use of the outdoor patio/common space, and that Plaintiff is entitled to recover the sum of \$146,124.00 as a result. Finally, the jury determined that all Defendants made a negligent misrepresentation to Plaintiff, and that Plaintiff is entitled to recover the sum of \$96,800.00 as a result.

Following the jury verdict, the Court heard the parties' respective post-trial motions and an Order Regarding Post-Trial Motions was filed on December 13, 2021 (hereinafter, the "Order"). The Order granted Plaintiff's Motion for Directed Verdict (Specific Performance) and directed that the closing on the purchase/sale of the "Demised Premises" as defined in the lease agreement between the parties shall occur on or before May 31, 2022 (the "Closing Date"), and that the "Purchase Price" as defined in the lease shall be further reduced by the total amount of Base Rent paid by Plaintiff since February 2, 2018, through the Closing Date. The Order further provides that upon the closing, the lease shall terminate. The Order further provides that Plaintiff shall retain the right to jointly use the Common Areas (as defined in the lease and determined by the jury) with the remaining tenants, that the condominium documents shall expressly so provide, and that Defendants shall not restrict or limit Plaintiff's right to use the Common Areas in conjunction with the remaining tenants in the building. The Order also provides that Plaintiff must elect between the remedy of specific performance or the recovery of the money damages awarded for breach of the lease in regards to the Option to purchase in the amount of \$221,700.00. Plaintiff has elected the remedy of specific performance and therefore the money judgment entered against Defendant Riverwalk River District Building 6, LLC shall be reduced by \$221,700.00 to account for this election of remedies, but in all other respects the money judgments in Plaintiff's favor, as well as the Purchase Price, shall be unaffected by this election of remedies. The Order also granted Defendants' Motion for Judgment Notwithstanding the Verdict as to Plaintiff's Negligent Misrepresentation claim against Defendant Mark S. Mather only. The Order also granted Plaintiff's Motion for Award of Costs and Attorneys' Fees in the total amount of \$404,934.75, which amount shall be taxed against Defendant Riverwalk River District Building 6, LLC only. The Order also granted, in part, Plaintiff's Motion for Award of Pre-Judgment Interest, and

directed that pre-judgment interest at the rate of 8.75% shall accrue on the Base Rent paid by Plaintiff since February 2, 2018, and shall be taxed against Defendant Riverwalk River District Building 6, LLC only. From February 2, 2018, through April 2022, Plaintiff has paid \$122,128.53 in Base Rent under the lease. Base Rent for the month of May 2022 is \$2,516.97.

The Court also heard the Defendants' Rule 59(e) Motion to reconsider the Order Regarding Post-Trial Motions, and these motions are DENIED.

There being no further matter or issue for resolution by this Court, the Court hereby enters final judgment upon the jury verdict:

1) Judgment in favor of Plaintiff and against Defendant Riverwalk River District Building 6, LLC in the amount of \$146,124.00 on the jury verdict (Issue # 2), plus \$96,800.00 on the jury verdict (Issue # 3), and \$404,934.75 in costs and attorneys' fees, for a total amount of \$647,858.75;

2) Judgment in favor of Plaintiff and against Defendants GRH Development Resources, LLC, The Greens of Rock Hill, LLC, and Assured Administration, LLC, jointly and severally with Defendant Riverwalk River District Building 6, LLC, in the amount of \$96,800.00 on the jury verdict (Issue # 3);

3) Specific performance of the Option to Purchase contained in the Lease Agreement between Plaintiff and Defendant Riverwalk River District Building 6, LLC. The closing on the purchase/sale shall of the property located at 829 Terrace Park, Suite 104, Rock Hill, SC 29730, shall occur by May 31, 2022. Time is of the essence. Prior to closing, Defendant Riverwalk River District Building 6, LLC shall do whatever is required to put itself into a position to convey the property to Plaintiff, in terms of creation of a horizontal property regime for the building, or otherwise. The Master Deed shall be in substantially the same form as that prepared by Todd

Brockmann, Esq. on behalf of Defendant Riverwalk River District Building 6, LLC in January 2018 and subsequently approved by Plaintiff. At the closing, Defendant Riverwalk River District Building 6, LLC shall deliver good, clear, insurable, and marketable fee simple title by a General Warranty Deed running to Plaintiff, free and clear of all liens and encumbrances, subject only to the following: (a) building, zoning, environmental, and land use laws, regulations and ordinances applicable to the property as of the date of conveyance, and (b) easements, covenants, restrictions, reservations and other similar matters of record not objected to by Buyer. At the closing, Plaintiff shall pay the Purchase Price as defined in the Lease Agreement, which price shall be further reduced by the total amount of Base Rent paid by Plaintiff since February 2, 2018, through the Closing Date¹;

4) Pre-judgment interest on the Base Rent paid by Plaintiff since February 2, 2018, though the Closing Date, shall be taxed against Defendant Riverwalk River District Building 6, LLC on a monthly basis²; and

5) Post-judgment interest shall be applied to all money judgments herein as provided by law.

IT IS SO ORDERED.

The Honorable William A. McKinnon

_____, 2022
_____, South Carolina

¹ Plaintiff has paid \$122,128.53 in Base Rent through April 2022. Base Rent for the month of May 2022 is \$2,516.97.

² Monthly rent from February 2, 2018 through January 31, 2019 was \$2,325.29. Monthly rent from February 1, 2019 through January 31, 2020 was \$2,371.8. Monthly rent from February 1, 2020 through January 31, 2021 was \$2,419.24. Monthly rent from February 1, 2021 through January 31, 2022 was \$2,467.62. Monthly rent from February 1, 2022 through January 31, 2023 is \$2,516.97.



York Common Pleas

Case Caption: Grapevine Of Riverwalk Inc The VS Riverwalk River District
Building 6 Llc , defendant, et al

Case Number: 2018CP4603726

Type: Order/Other

So Ordered

/s William A. McKinnon, #2761, Circuit Judge