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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **IN AND FOR THE COUNTY OF TULARE**

13 CITY OF VISALIA, a California
14 municipal corporation and charter law
15 city,

16 Plaintiff,

17 v.

18 FIRST PITCH ENTERTAINMENT,
19 LLC., a Delaware limited liability
20 company,

21 Defendant.

CASE NO.:

**COMPLAINT FOR
DECLARATORY RELIEF**

22 1. Plaintiff, City of Visalia (“City”) is a municipal corporation and a Charter Law
23 City.

24 2. Defendant, First Pitch Entertainment, LLC (“FPE”) is a Delaware Limited
25 Liability Company, registered to do business in California since September 25, 2019.

26 3. This court has jurisdiction to resolve this dispute as set forth in law including
27 but not limited to Code of Civil Procedure section 1060, *et seq.*

28 4. City owns real property and the structure on the real property known as
Recreation Ballpark (recently renamed by FPE as Valley Strong Ballpark), located at 300 No.
Giddings Street, Visalia, County of Tulare, California (“Ballpark”).

5. City has owned, operated and leased the Ballpark since it was constructed and
dedicated in 1946. It has housed a Minor League Baseball (“MiLB”) team, with various

1 names, since it was opened. Although improvements have been made to the park over the
2 years, its structure remains true to its historical founding. City considers Ballpark an important
3 part of the community. The City has spent tens of millions of dollars over the years
4 maintaining the Ballpark for the use and enjoyment of the community.

5 6. FPE is the sole owner of the Minor League Baseball (“MiLB”) team franchise
6 known as the Visalia Rawhide that serves as a feeder or “farm team” to the Major League
7 Baseball (“MLB”) franchise of the Arizona Diamondbacks, which is homed at the Ballpark.
8 FPE is owned by members of the Sigal Family. Elliot Sigal is financially a very successful
9 medical doctor and entrepreneur. He is the patriarch of the Sigal Family. He is also the
10 managing member of FPE. Elliott Sigal bought the MiLB team franchise and placed his son,
11 Sam Sigal as the president of the team. The team was purchased as a “Family Legacy
12 Investment.” Prior to purchase, Elliott Sigal conducted an extensive investigation into the
13 economics of owning an MiLB baseball team, and an investigation into the Ballpark itself.
14 Elliott Sigal is a sophisticated businessperson with experience negotiating written contracts.

15 7. In the 10 years before FPE purchased the Rawhide franchise, the City had
16 invested more than \$12 million in public funds to improve the Ballpark, including major
17 renovations to player facilities in addition to grandstands and other fan facilities. The City’s
18 long list of projects at the Ballpark, starting with a major renovation in 2009, include fully
19 reconstructed dugouts, new lighting, improved field conditions, and other elements of the
20 facility that were intended to achieve compliance with MLB standards then in effect. City has
21 also contributed at least \$200,000 each year to additional improvements requested by FPE’s
22 predecessor franchise owner, which were both fan focused and player focused.

23 8. Currently, FPE leases the Ballpark from City as the home ballpark for its MiLB
24 team known as the Rawhide, pursuant to a written agreement dated and effective as of
25 December 31, 2019. (“Lease”, attached hereto as Attachment 1). At the time FPE leased the
26 Ballpark from City, FPE knew and acknowledged the historical significance of the Ballpark,
27 along with its dated structural status. FPE did not negotiate the form of Lease; instead the
28 parties utilized the same form of Lease that had been negotiated and signed with the

1 predecessor Rawhide franchise owner, Top of the Third, Inc. (“TTI”). Elliott Sigal, on behalf
2 of FPE executed the new Lease on September 12, 2019.

3 9. The Lease acknowledges and accept that the Ballpark were in an acceptable
4 state of compliance with standards for facilities as established by Major League Baseball
5 (“MLB”)- “except as set forth in the 2018 Facility Report prepared by Gould Evans
6 Associates, LC” at the time the agreements were signed and FPE took possession of the
7 Ballpark. This provision was material and critical to City agreeing to lease the Ballpark to
8 FPE. A mere one year later, FPE, unbeknownst to the City, agreed with MLB to accept an
9 entirely new set of facility standards as a condition to a renewed licensing agreement. FPE
10 then began demanding the City spend upwards of \$10 million of public funds to bring the
11 Ballpark into compliance with the new standard that FPE and MLB had agreed to (without the
12 City’s knowledge or consent). This action by FPE is contrary to the express terms of the Lease.

13 10. The basic terms of the Lease include:

14 a. The Tenant (not the City) is obligated to provide and pay for
15 maintenance, repair and operation of the facility (Par. 8(d)), with specific exceptions
16 for limited “major maintenance” items the City must provide and pay for directly (Par.
17 6(b), as well as a specific and limited obligation of the City to pay for or reimburse up
18 to \$100,000 of tenant’s utility costs (Par. 6(a)).

19 b. The Tenant (not the City) is obligated to pay for any desired
20 improvements (Par. 13(a), subject to review and approval by the City, and subject to
21 agreement from the City to contribute up to \$200,000 per year toward those
22 improvements (Par. 13(b)).

23 c. The Tenant is provided the right to possess and occupy the facility, on
24 the condition that it operate a Minor League Baseball franchise at the facility, and
25 otherwise operate, maintain, and manage other public use of the facility by third party
26 event promoters. (Par. 8.)

27 d. Regarding compliance with MLB facility standards, the Lease (Par. 2)
28 obligates the City to provide a stadium facility at the outset of the lease that complied

1 with MLB Minor League Baseball facility standards known as “Rule 58” attached to
2 the Lease as “Exhibit B “. The Lease also acknowledged that there were areas of
3 agreed-upon non-compliance that were documented and accepted through a report that
4 was attached as Exhibit C. Par. 2 of the lease is clear that the obligation for the City
5 to pay for any **additional** improvements (i.e. those not identified in the attached report,
6 or that may become necessary because of MLB rule changes after the lease term
7 commences) is expressly limited to the obligation to provide the “Annual
8 Contribution” toward tenant-directed improvements of \$200,000 that is established by
9 Par. 13(b) as noted above.

10 11. The Lease is clear that City’s financial obligations to support major renovations
11 and additions based on MLB’s changes to the Facility Standard are unambiguously capped at
12 a maximum sum per year. Once the Ballpark was accepted by FPE as substantially compliant
13 with Rule 58, City’s financial obligations to contribute to the cost of renovations, alterations
14 or improvements under either Section 2 (required by MLB) or Section 13(b) (FPE’s
15 discretionary projects that it otherwise may wish to undertake) are capped at \$200,000 per
16 year. Any liability for maintaining or improving the Ballpark over and above those limits lies
17 squarely with FPE, or MLB, or some other person that is not City.

18 12. In calendar year 2020 (the first year of the lease term) City continued to meet
19 its obligations to pay the capped amount of operating expenses and improvement contributions
20 for that year, despite the fact the tenant failed to provide any Minor League Baseball games
21 to the public at all, due to the COVID 19 pandemic.

22 13. Meanwhile, FPE has refused to abide by these clear Lease terms and instead is
23 now demanding that the City pay for a new set of additional improvements that were not
24 required by either Exhibit B of the Lease (Rule 58) or Exhibit C of the Lease (Identified areas
25 of agreed-upon non compliance). FPE claims this new set of improvements are required to
26 meet a new set of standards that MLB adopted approximately one year after the lease term
27 commenced.

28 14. FPE claims City must provide unlimited public funds so FPE can agree with

1 Major League Baseball (MLB) to “Player Development League” facility requirements. In
2 February of 2021, FPE claimed City is responsible for upwards of \$10 million to bring the
3 Ballpark into compliance with the entirely new Player Development League Agreement
4 (PLDA) Facility Standards that have replaced the original Rule 58.

5 15. In or about March of 2021, FPE approached City’s Community Services
6 Director to discuss City’s financial responsibility for making significant new improvements
7 to the Ballpark in compliance with an “amended Rule 58.” At that time, FPE informed the
8 City that it had signed a new “Player Development License Agreement” with MLB and the
9 Arizona Diamondbacks (“PDLA”), which did away with Rule 58 and imposed in its place a
10 new set of facility standards, described as “Exhibit B” to the PDLA.

11 16. Through the new PDLA, MLB did not just amend Rule 58: It disregarded the
12 rule in its entirety and replaced it with a completely new set of standards, as is clearly reflected
13 when comparing Exhibit B of the Lease (Rule 58) with Exhibit B (Facility Standards) of the
14 new PDLA. City was never consulted, advised or informed in any way regarding the new
15 facility standards before they were agreed to by FPE.

16 17. After preparing the initial list of demanded improvements estimated to cost in
17 excess of \$10 million, Tenant has presented the City with an ever changing list of
18 improvements that it claims MLB will “accept” in order for Tenant to not be in conformance
19 with its new PDLA. The City is not a party to FPE’s PDLA with MLB.

20 18. The varying list of improvements have come with cost estimates totaling
21 between \$7 million and \$11 million. Among the improvements FPE and MLB are demanding
22 be made is a renovation or replacement of many of the same stadium lighting fixtures that had
23 been replaced at the request of the prior tenant within the past five years which were needed
24 to meet MLB standards then in place. Tenant has demanded the City agree to simply
25 undertake those projects at its full cost and expense.

26 19. In response, the City has agreed to allow the use of the \$200,000 per year
27 “annual contribution” toward the MLB-identified facility improvements, but Tenant has
28 refused to proceed in this manner. Instead, FPE asserted that the City must commit unlimited

1 taxpayer money to pay for any and all improvements demanded by MLB, at the risk of causing
2 FPE to lose what it has described as its “family legacy investment.”

3 20. FPE’s interpretation of the Lease is significant and exposes City taxpayers to
4 substantial unlimited financial obligations. Following FPE’s execution of the PDLA, the
5 MLB-mandated Facility Standards changed substantially. In September of 2021, FPE hired
6 the firm of Ewing Cole to perform a facilities audit of the Ballpark to determine compliance
7 with the FDLA standards. In the audit report, MiLB ballpark facilities are potentially assessed
8 p to 539 “Penalty” points depending on their level of compliance with the PDLA Facility
9 Standards. The Ballpark was assessed 206 penalty points, suggesting a 38 % failure rate to
10 meet MLB’s expectations. Thereafter, FPE claimed that an approximate payment of \$10
11 million by City would be necessary to bring the Ballpark into compliance with PDLA
12 standards.

13 21. During the period of time that FPE demanded City commit unlimited taxpayer
14 money to help fund their “Family Legacy Investment,” failed to maintain the facility, as
15 required by the Lease. City inspectors have prepared numerous reports identifying areas of
16 deferred maintenance that needed to be corrected. Some but not all of these deficiencies have
17 been acted upon by FPE.

18 22. In addition to not maintaining the Ballpark during this period of time, FPE has
19 failed to make payments to City for FPE’s share of operating expenses for the 2021 calendar
20 year, as required by the Lease. This conduct raises reasonable concerns as to the intentions of
21 FPE regarding to the overall ability to sufficiently protect and maintain the City’s significant
22 prior investment in the Ballpark.

23 23. A dispute currently exists between City and FPE concerning their respective
24 right and responsibilities under the Lease. FPE has threatened to sue City for millions of
25 dollars in “damages” to his “Family Legacy Investment” that have yet to occur. City’s efforts
26 to resolve this dispute through direct negotiations between City and FPE, along with mediation
27 with an agreed upon mediator have failed. Rather than waiting to be sued and spending
28 substantial sums on protracted litigation, City seeks a speedy judicial declaration of the

1 respective rights and obligations of the parties to the Lease.

2 **PRAYER**

3 City prays for judgment against FPE for the following declaratory relief and
4 other relief:

- 5 1. For a declaration of rights between the parties stating that City’s
- 6 monetary obligations under the Lease for purposes of improvements are
- 7 limited to \$200,000 per year;
- 8 2. Attorney’s fees and costs;
- 9 3. For such other and further relief as the Court may deem just and
- 10 appropriate.

11
12 Dated: HERR PEDERSEN & BERGLUND LLP

13
14 By: _____
15 LEONARD C. HERR
16 RON STATLER
17 Attorneys for Plaintiff,
18 CITY OF VISALIA