SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF TULARE

CITY OF VISALIA, Plaintiff, v. **FIRST PITCH ENTERTAINMENT, LLC;** and **DOES 1 to 25,** inclusive, Defendants.	Case Nos. VCU294607 **DECISION AFTER TRIAL**

This case, concerning a lease dispute between First Pitch Entertainment, LLC, (First Pitch) and the City of Visalia (City), from whom First Pitch leases a baseball stadium and related facilities (Rawhide Stadium), came on for trial beginning October 16, 2023, continuing through to conclusion on October 18 and 19, 2023. The parties then submitted two rounds of written closing briefs and presented final oral closing arguments on November 29, 2023, after which the court took the matter under submission for ruling.

The City and First Pitch each submit competing complaints for declaratory relief concerning interpretation of their lease. Centrally at issue in the City's complaint and First Pitch's cross-complaint is the extent of the Parties' financial obligation under the lease to pay the cost of renovations necessary to comply with facility standards promulgated after the parties entered their lease. The City contends its monetary obligations are capped at $200,000 and First Pitch contends

the City's obligations are monetarily open and unrestricted. Each seeks a judicial declaration supporting their position.

Factual background

First Pitch, which now owns the Visalia Rawhide baseball team (Rawhide), is co-owned by members of the Sigal family, including Sam Sigal, who serves as president of the Rawhide; and Sam's father, Elliot Sigal, who is First Pitch's managing member. According to Elliot,[1] First Pitch was formed for the purpose of purchasing the Rawhide team. First Pitch bought the team in January 2020 from its prior owners, Top of the Third, Inc. (ToT).

ToT's preceding lease with the City

Elliot testified by way of admitted deposition transcript that First Pitch first met with Tom Seidler of ToT in 2017. The parties jointly reference Seidler as the lead person acting on behalf of ToT. Seidler was, around and/or after that time, engaged in continuing discussions regarding a lease between ToT and the City for ToT's use of Rawhide Stadium as then-owner of the Rawhide.

First Pitch needed ToT's lease finalized before it could buy the team. Elliot explained: "[It] was a natural instinct of mine and a specific recommendation of my advisor not to buy a team until you had at least a 10-year lease and that you knew the elements of the lease. The most important elements that we had and upon which we made our decision to buy was how the facility standards would be handled, what the operational support was, so that we could calculate whether it could operate the way *Tom Seidler thought* and the way we thought was acceptable." (Emphasis added.)

As indicated by Elliot's testimony, it was Seidler who negotiated the substantive terms of the lease with the City that, later, were adapted for the City's lease with First Pitch. Elliot testified, "[w]e waited *until Tom finished his negotiations* before we made an indication that we might buy the team," (emphasis added) and, according to Sam, First Pitch was "[n]ot directly" involved in negotiations between ToT and the City. Instead, Sam communicated with Seidler only, "as part of [his] duties with due diligence."

Elliot testified ToT and the City entered their lease sometime in 2019. According to Elliot, "[Seidler] got the lease to the point where *he had represented* the things that we thought were

[1] Elliot Sigal and Sam Sigal are referred to by first name only for ease of reference and differentiation between them.

important in the lease except for the term," (emphasis added) and "we were happy with *his negotiations* and they were *critical to our assumptions* needed to buy the team except for the term" (emphasis added). According to Elliot, when it came time for First Pitch to enter its own lease with the City, they "went to the City and said, '[w]e would like to extend this lease for 10 years.' " Consistent with the foregoing testimony, First Pitch conceded at trial that it could not show "direct conversations" between it and the City, or that it "received the lease directly from the City."

First Pitch's lease & Rule 58

Sam testified he "[f]irst had a conversation with the City of Visalia [regarding the Rawhide] in April of 2019," which appears to have been around (or shortly after) the time ToT and the City finalized or executed their lease.

Later, on September 16, 2019, the City adopted an ordinance authorizing a 10-year lease of the ballpark to First Pitch. Sam testified he had dealings with then-serving city officials up to and after adoption of the ordinance, and, later, with other city officials.

On November 12, 2019, the City and First Pitch executed the lease at issue in this case. The lease became effective on closing of First Pitch's purchase of the Rawhide from ToT, which date the parties stipulated was January 3, 2020.

Stadium standards at the time of the lease; Rule 58

The parties' lease includes various provisions describing their obligations with respect to costs associated with the Rawhide Stadium and facilities. Amongst the main provisions at issue here, the lease provides that the City "shall provide a facility ... that complies with all aspects of Major League Rule 58, establishing 'Standards for Minor League Playing Facilities,' (a copy of which is attached hereto as Exhibit B) or as the same may be amended ... (hereinafter, the 'Facility Standards'), said Facility Standards being incorporated herein by reference."

The background of "Rule 58"[2] standards is not addressed in the lease and the evidence presented at trial did not significantly assist the court in its Decision. The evidence did not clearly

[2] The parties refer to the "Major League Rule 58" standards as "Rule 58" standards. Although it is not particularly important to point out, the court did note the standards attached to the parties' lease (which is the only place in the record of evidence where the Rule 58 standards appear) are entitled "MAJOR LEAGUE RULES," with the subtitle "MLR Attachment 58."

show whether, or in what manner, Rule 58 may have imposed standards on the Rawhide facility at the time of the parties' lease (aside from the provisions of the lease itself) and it is not clear from the evidence whether Rule 58 standards were incorporated in the lease because the Rawhide Stadium had to comply with those standards, or for some other reason. It is not self-evident that Rule 58—even if it was a MLB rule developed to govern minor league stadiums (as it appears to be, based on the attachment of Rule 58 to the lease)—imposed obligations on the Rawhide Stadium outside the terms the lease. This is because, as the parties stipulate, "[h]istorically, the Rawhide operated as part of a Minor League organization ('MiLB') independent of MLB." Elliot's testimony indicated, notably, that certain teams had "waivers" for Rule 58 standards, suggesting both that they applied to teams in absence of waiver, and that multiple teams had waivers, but there was no evidence presented as to whether the Rawhide had such a waiver.

Sam testified, somewhat vaguely, that the then-governing MiLB organization "had an agreement with [MLB] where [MLB's] rules would be put into effect and the teams would then sign player development contracts with their major league affiliates," and that Rawhide "had a contract with the Diamondbacks, then they were a member of the association with a contract, and the association operated within Major League Baseball," but none of this testimony put a particularly fine point on the effect of Rule 58 on the Rawhide baseball team leading up to when the parties entered their lease.

For his part, Elliot testified he *understood* Rule 58 to be "a Major League Baseball rule of facility standards," and further, that it was his *understanding* that Rule 58 was in effect at the time First Pitch entered its lease with the City, but he did not expressly testify that Rule 58 imposed standards applicable to the Rawhide facility apart from the lease provisions. No one from MLB or the former MiLB governing organization, or any other qualified person with detailed knowledge of Rule 58 testified at trial. Only Sam and Elliot Sigal provided testimony, with Elliot's testimony included only by way of admission of his deposition transcript.

MLB's new standards: PDL Operating Guidelines & PDL License Agreement

In early 2021 (approximately a year after the City and First Pitch executed their lease and the lease became effective), MLB took over MiLB as the governing body of minor league baseball.

Sam testified that, after the takeover, "instead of having a contract with a separate association to then go under [MLB's] rules [with] minor league teams [having] signed contracts with [MLB] teams," "minor league teams [after the takeover] only have one contract, and that is with [MLB]."

After MLB took over, it promulgated PDL (Player Development License) Operating Guidelines, including minor league facility standards. As stipulated by the parties, "[t]o enforce [the PDL Operating Guidelines] and MLB Rules, MLB required minor league teams who MLB determined could retain franchises, including the Rawhide, to enter into a Professional Development License Agreement [referred to in the PDL Operating Guidelines as a PDL License Agreement] ... ." The parties further stipulated that "[t]he Rawhide executed the [PDL License Agreement] on February 12, 2021."

Also, per stipulation of the parties, "[t]he Rawhide [PDL License Agreement] obligates Rawhide to comply with guidelines set forth in the [PDL Operating Guidelines], including standards related to the condition of the ballparks' facilities." Further, the parties stipulated the PDL License Agreements required by MLB require "that all stadiums, including the [Rawhide Stadium], meet the standards set forth [in the PDL License Agreements] by the start of the 2023 minor league baseball season," and "[f]ailure to meet [those standards] may result in [First Pitch] incurring fines or even termination of its [PDL License Agreement] with MLB."

Whether MLB's new standards were "amended" Rule 58 standards

The parties dispute whether MLB's post-lease standards were "amended" Rule 58 standards.

The only testimony on the issue was Sam's testimony that, as of 2019, "Rule 58 ... was Rule 35," which was "updated into [Rule 27]," which, in turn, referred to the PDL License Agreement regarding facility standards. According to Sam, Rule 27 now dictates facility standards, which is traceable as an amendment to Rule 58. First Pitch further contends that Rule 58 was a MLB rule governing minor league stadium standards, and, accordingly, its subsequently promulgated standards were necessarily amended Rule 58 standards.

No evidence was admitted at trial reflecting the text of Rule 27 or Rule 35, nor was any specific evidence admitted, beyond Sam's testimony, as to the actual procedural progression from Rule 58, to Rule 35, to Rule 27, or, relatedly, from Rule 58 to the PDL Operating Guidelines.

Further, it is unclear from the evidence whether First Pitch submits that Rule 35 or Rule 27 effected substantive amendment of the prior Rule 58 standards.

The parties agree that the PDL Operating Guidelines and the PDL License Agreement now impose standards on Rawhide Stadium and that those standards are a change from the standards formally contained in Rule 58. The City disputes, however, that the new MLB standards in the PDL Operating Guidelines were "amended" Rule 58 standards. The evidence presented at trial on this issue was inconclusive.

Changes required by MLB's new standards

The evidence at trial concerning specific renovations necessary to bring the Rawhide ballpark into compliance with MLB's standards was, as with some of the matters discussed above, also not particularly definitive.

Sam testified that after MLB promulgated new standards, it "sent out a firm to audit all 120 teams that remained in Minor League Baseball," and that MLB audited the Rawhide "through EwingCole" with participation by Sam "and [a] representative from the City," and that Sam was present when the auditor toured the stadium facilities and conducted its evaluation. Sam also testified that EwingCole "visited the stadium and graded the facilities in a report card-style rubric," which he explained involved "a multipage grid and scoring system where [the auditor] graded certain parts of the facility ... and whether they fit towards compliance." Sam testified concerning how PDL Operating Guidelines standards, in some respects, differed from Rule 58, but without specific reference to Rawhide Stadium.

As to Rawhide Stadium's compliance specifically, Sam only testified that new "field lighting" requirements were "above what Visalia's had," and that "Visalia wasn't compliant under the prior one [presumably referring to Rule 58] either." No evidence was admitted concerning the details of the report of compliance issues following EwingCole's audit.

Summary of relevant lease provisions

As stated above, both parties argue the court need only review the terms of the lease to find support for issuance of their respective competing judicial declarations. It is also notable here that

the lease includes a fairly broad integration provision.[3]

The City claims the lease unequivocally supports "that the City's monetary obligations under the Lease for purposes of improvements are limited to $200,000 per year." First Pitch claims that the lease unequivocally supports the City has an unlimited financial obligation for "the payment of any necessary projects, renovations, and improvements so as to bring Rawhide Stadium into compliance with MLB Facility Standards."

Two sentences in section 2 of the lease agreement are principally here at issue.

- *First* is the sentence already noted above, the first sentence of section 2, stating:

  "[The City] shall provide a facility ... that complies with all aspects of Major League Rule 58, establishing 'Standards for Minor League Playing Facilities,' (a copy of which is attached hereto as Exhibit B) or as the same may be amended ... (hereinafter, the 'Facility Standards'), said Facility Standards being incorporated herein by reference."

- *Second*, is the third sentence, which includes two clauses separated by a semi-colon:

  The *first clause* states:

  > "[The City] agrees that if *additional renovations* are *necessary* ... , then [the City] shall be responsible for the cost of those renovations, up to the Annual Contribution of $200,000 described in Section 13(b)[4] ... , in addition to all other [City] obligations under this Lease Agreement concerning major maintenance or repairs of the Premises [inclusive of 'Recreation Ballpark, the baseball stadium and associated stadium improvements']; ..." (emphasis added)

  The *second clause* states:

  > "... *provided, however*, that if the Baseball Authorities [defined hearby as being comprised of First Pitch's 'MLB affiliate' and/or any 'applicable baseball governing bodies'] institute new mandates following the expiration of the current Professional Baseball Agreement ('PBA') requiring new construction projects that are not improvements to the existing Premises, [the City and First Pitch] agree to negotiate in good faith regarding their respective responsibilities with respect to the cost of such new construction projects."

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[3] Section 26 of the lease states as follows: "This instrument constitutes the sole agreement between Lessor and Lessee respecting the Premises, the lease of the Premises to Lessee by Lessor, and the lease terms set forth in this Leage Agreement, and correctly sets forth the obligations of Lessor and Lessee to each other as of the Effective Date. Any agreements or representations respecting the Premises, the leasing of the Premises to Lessee by Lessor, or any other matter discussed in this Lease Agreement not expressly set forth in this instrument are null and void."

[4] Section 13(b) provides that the City "shall contribute $200,000 per calendar year [cumulative during the lease term] for [First Pitch]-directed discretionary alterations and improvements to the Premises that improve the fan experience (the 'Annual Contribution')." (*Note continued on next page.*)

Further, 13(b) provides that the "Annual Contribution shall be in addition to the [City's] Major Maintenance obligations under Section 6(b)." Section 6(b) defines the City's "Major Maintenance" obligations, which do not appear limited by cost, as including, but not being limited to, certain listed representative categories (e.g., HVAC, elevator, roofs, repairs, parking lot, electrical, plumbing, etc.)

Between the above-described two sentences, the second sentence of section 2 provides that areas of non-compliance with facility standards are acceptable only on agreement of First Pitch; its affiliate, the Diamondbacks; and "all applicable baseball governing bodies."

A principal matter in dispute in this case concerns what the lease means by "additional renovations" in the third sentence of section 2.

First Pitch argues this term refers to renovations "additional" to the City's obligation implied in the preceding first sentence requiring the City to "provide a facility ... that complies with all aspects of Major League Rule 58 ... as the same may be amended." Accordingly, according to First Pitch, the City's obligation to provide a compliant stadium described in the first sentence of section 2 has no monetary limit.

The City conversely argues "additional renovations" refers to *any* renovations incident to the City's obligation to provide a compliant facility, and, accordingly, that its cost obligations with respect to bringing the stadium into compliance with applicable standards are limited to the section 13(b)-provided $200,000 cap.

Analysis

Despite the skillful arguments of counsel to the contrary, the parties' respective complaints cannot be determined solely be reference to the text of the lease. The court will not recount or discuss the entirety of First Pitch's cited authorities regarding contract interpretation principles except to say that the principles cited are of insufficient aid here—the court is not presented with mutual intentions readily "ascertainable" from the lease terms as the those terms are not "clear and explicit" concerning the issues in dispute, and taking the "whole of the contract ... together," interpreting "its language in context," confounds, rather than resolves, the ambiguity presented. (See Civ. Code, §§ 1636-1639, 1641.)

First, the lease provides no guidance on how the parties intended to determine whether and how Rule 58 has been amended in any subsequently promulgated standard. The lease is silent on the authority that promulgated the standard and silent on the authorities recognized as having the ability to amend it. The court did not find, and the parties did not identify, anything in the lease or in the attached "MLR Attachment 58" describing the authority or procedures by which Rule 58

would be recognized by the parties as amended. What's more, the parties who negotiated that provision are not the same parties who executed the lease at issue here and there is no evidence of direct discussions between these parties that might illuminate a mutual understanding of what they would recognize as an amendment of Rule 58. The negotiating parties, to include the City, First Pitch and ToT, did not seem to anticipate a change in the governing body of Minor League Baseball or the resulting required stadium improvements at any time prior to the subject lease being signed. Likewise, no evidence was presented that either party contemplated at the time the subject lease was signed an unlimited (non-capped) monetary expenditure for Rawhide Stadium improvements or renovations such as those at issue in this case.

Second, the lease does not unequivocally support either parties' position concerning the City's obligation for renovations necessary to achieve whatever compliance standards are deemed to apply. It is possible, as First Pitch argues, to read the first sentence of section 2 as a complete and self-contained statement of an unqualified obligation on the part of the City to provide a standards-compliant stadium. Indeed, First Pitch is correct that the first sentence, read in isolation, states exactly what it claims it states. First Pitch incorrectly suggests, however, that if the parties intended to qualify the City's obligation in the first sentence, they necessarily would have stated the qualification in the first sentence, or the immediately following sentence. Indeed, in this very lease, in section 6(a), the lease states an ostensibly unqualified obligation for the City to pay certain utility costs in the first sentence, and then, in the fourth sentence, caps "the total maximum amount for which City will be responsible in any calendar year" to "$100,000."[5]

The first clause of the third sentence of section 2 is also not as definitive as either party suggests. First Pitch persuasively argues that clause cannot be read to impose a cap on the City's cost obligations indicated in the first sentence because "additional" must be read to refer to renovations other than those described in the first sentence. However, the third sentence could also reasonably be interpreted to provide that *any* renovations required after execution of the lease—all

[5] It is also not true, as the City contends, that the City's monetary obligations are always clearly capped in the lease. Contrary to the City's representation in its closing brief, section 6(b) regarding "Major Maintenance" does not appear to set any cap on the City's financial obligation for the items described in that section.

later renovations being necessarily "additional" in the sense that they are additive to the state of the facility at the time of the lease—are subject to the cap provided under section 13(b) along with the other improvement costs described in that section. The court further notes that, only by interpreting the third sentence in this way, can the court find a point of reference for "necessary" in the first clause of the third sentence stating the condition, "if additional renovations are *necessary* ... ."[6]

First Pitch additionally argues that the reference in the first clause of the third sentence to section 13(b), a section that does not obviously, at least expressly, concern facility standards, supports that the cap in the third sentence necessarily does not apply to facility standards renovations. According to First Pitch, instead, "additional renovations" was obviously intended as a "catch-all, meant to account for the City's risk exposure for additional improvements to the Premises that are unrelated [i.e., additional to] to Facility Standards and also not readily classifiable as [i.e., additional to] fan experience improvements [as provided under 13(b)], and then [to] cap said exposure under the $200,000 fan improvements limit [set forth in section 13(b)]." First Pitch posits a topical hypothetical example of Covid-19 related improvements.

This is not an entirely improbable manner of informing the possible meaning of "necessary," but it is, however, not one that has any reference to the "Facility Standards" section in which the third sentence appears. Despite the ambiguous use of the term "additional" to describe the "renovations" at issue in the third sentence—and the court tends to agree with First Pitch that "additional" more suggests something *other than* the previously described category of renovations—the term "necessary" only appears to make sense as a reference to the types of renovations otherwise described in the section where the sentence is found, i.e., those necessary to achieve "Facility Standards."

Relatedly, if the parties intended to create a class of City obligations subject to the $200,000 cap in section 13(b) for renovations not related to facility standards and not readily classifiable as related to "fan experience," it is not clear why that class would be placed in a section addressing "Facility Standards" if the class had nothing to do with the obligations described in that section. The parties could have, instead, and without any ambiguity, devoted a separate paragraph to this

[6] The court finds it telling that neither party attempts to address the use of the word "necessary" in the subject clause.

class of obligations, either in section 6 or 13, or, simpler still, provided in section 13(b) itself that the City "shall contribute $200,000 per calendar year for [First Pitch]-directed discretionary alterations and improvements to the Premises" irrespective of whether they "improve the fan experience."

The second clause of the third sentence does not resolve the ambiguity either. That clause, again, requires the parties to "negotiate in good faith regarding their respective responsibilities," "if the Baseball Authorities institute new mandates following the expiration of the current Professional Baseball Agreement ('PBA') requiring new construction projects that are *not improvements* to the existing Premises." (Emphasis added.) First Pitch reasons that because this second clause shows that the parties agreed to negotiate cost sharing in good faith with regard to new mandates (i.e., new standards) requiring "projects that are not improvements," it also shows, by negative implication, that the parties did not agree to further negotiate cost allocation with regard to new mandates/standards that *are* improvements. This conclusion can only follow, however, if one has already accepted that the first clause does not concern cost obligations with respect to facility standards, notwithstanding that the second clause—*of the very same sentence, found in the "Facility Standards" section*—expressly concerns facility-standards-related obligations.

In short, even if the post-lease MLB standards are deemed amended Rule 58 standards, the lease does not provide an answer to the question of whether the City's cost obligation associated with those new standards is capped, or not, by the first clause of the third sentence of section 2. Accordingly, the court is faced with unresolved ambiguity in the terms of the lease, and neither party's complaint can prevail solely by reference to the lease terms.

The evidence presented at trial does not provide much further assistance in analysis of the parties' lease. This is not surprising, however, as each party was faced with the threshold limitations imposed by their unambiguous integration clause by which the parties agreed that "[a]ny agreements or representations respecting the Premises, the leasing of the Premises to Lessee by Lessor, or any other matter discussed in this Lease Agreement not expressly set forth in this instrument are null and void."

In addition, even if the parties had not adopted a comprehensive integration clause, or that

clause was read not to exclude evidence to determine the lease's ambiguity, there is the underlying circumstance that *these parties* apparently did not directly negotiate and discuss the substantive provisions of *their lease*. Accordingly, if extrinsic evidence to determine the ambiguities at issue in this case were admissible, it appears the only possible evidence would concern representations and discussions between First Pitch and Seidler and between Seidler and the City, but not between First Pitch and the City. Again, it does not appear by the evidence presented in this case that the parties contemplated when entering the subject lease agreement either the removal or replacement of the MiLB by MLB as the Minor League governing entity or the substantial Rawhide Stadium improvement costs at issue in this case. There is insufficient evidence in the record to support judgment in either parties' favor on their respective complaints for declaratory relief.

Disposition

The court declines to issue declaratory relief on either parties' complaint and judgment shall be entered against both the City and First Pitch on the complaint and cross-complaint.

Dated: December 21, 2023

Hon. David C. Mathias
Judge of the Superior Court