

IN THE CIRCUIT COURT OF THE
FIFTH JUDICIAL CIRCUIT, IN AND
FOR LAKE COUNTY, FLORIDA

G3 MD, LLC, a Florida limited liability
company,

CASE NO.: 2024-CA-001127

Plaintiff,

v.

MOUNT DORA CENTER FOR THE ARTS,
INC., a Florida not for profit corporation, and
ALL UNKNOWN PARTIES IN POSSESSION,

Defendant.

ORDER ON DEFENDANT'S MOTION TO DISMISS

THIS CAUSE, came before the Court upon Defendant's Motion to Dismiss. The Court has read the motion, and response, reviewed the file, consulted the relevant authority, conducted a hearing and has otherwise been fully advised. The Court finds as follows:

1. This lawsuit stems from three agreements between the parties: a lease agreement (with Plaintiff as landlord and Defendant as tenant), a mortgage agreement (with Plaintiff as mortgagor and Defendant as mortgagee) and a sponsorship agreement, between the Plaintiff and Defendant.
2. The complaint includes claims for Count I – eviction, Count II – breach of lease agreement, Count III – breach of sponsorship agreement, and Count IV – breach of covenant of good faith and fair dealing. Defendant's Motion challenges Counts II, III, and IV.

When ruling on a motion to dismiss, “the trial court must confine its review to the four corners of the complaint, draw all inferences in favor of the pleader, and accept as true all well-pleaded allegations.” *Sobi*, 846 So. 2d at 1206; *City of Gainesville v. State, Dept. of Transp.*, 778 So. 2d 519, 522 (Fla. 1st DCA 2001); *Cintron v. Osmose Wood Preserving, Inc.*, 681 So. 2d 859,

860-61 (Fla. 5th DCA 1996). In addition, “The primary purpose of a motion to dismiss is to request the trial court to determine whether the complaint properly states a cause of action upon which relief can be granted.” *Sobi v. Fairfield Resorts, Inc.*, 846 So. 2d 1204, 1206 (Fla. 5th DCA 2003); *Provence v. Palm Beach Taverns, Inc.*, 676 So. 2d 1022 (Fla. 4th DCA 1996). Plus, “It is not for the Court to speculate whether the allegations are true or whether the pleader has the ability to prove them.” *Sobi*, 846 So. 2d at 1206. Thus, “[t]he question for the trial court to decide is simply whether, assuming all the allegations in the complaint to be true, the plaintiff would be entitled to the relief requested.” *Sobi*, 846 So. 2d at 1206; *Cintron*, 681 So. 2d at 860-61.

3. Defendant argues that Plaintiff’s claim that Defendant “failed to cooperate” in planning, approving, developing, and constructing the “New Center” in Counts II and IV is overly vague, because it does not identify any specific provision that was breached.

4. Defendant further argues Plaintiff’s allegation of a breach of lease due to the development of another site with a third party fails because Plaintiff does not allege any contract provision prevents Defendant from contracting with another party regarding a different site, or that the completion of the other site prevented Defendants from fulfilling the contract terms.

5. The Court agrees, and therefore finds that Counts II and IV must therefore be dismissed.

6. Defendant claims that Count III likewise fails to state with sufficient specificity how Defendant breached the sponsorship agreement

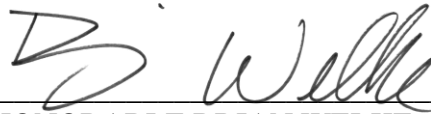
7. However, the Complaint alleges that Defendant failed to provide promotional benefits cited in paragraph 45. The Court finds that this is sufficient to place Defendant on notice of the factual basis for Plaintiff’s claim against it. Accordingly, it is

ORDERED and ADJUDGED:

1. Defendant's Motion to Dismiss is GRANTED as to Counts II and IV and DENIED as to Count III.

2. Dismissal is without prejudice for Plaintiff to file an amended complaint within twenty (20) days.

DONE AND ORDERED in Chambers, at Tavares, Florida, this 23rd day of January 2025.

A handwritten signature in black ink, appearing to read "B. Welke", written over a horizontal line.

THE HONORABLE BRIAN WELKE
CIRCUIT COURT JUDGE

Copies furnished to: Counsel of record.