

**STATE OF RHODE ISLAND  
PROVIDENCE, SC.**

**SUPERIOR COURT**

<b>CITY OF PAWTUCKET,</b>	:	
<i>Plaintiff,</i>	:	
	:	
v.	:	<b>C.A. No.: PC-2021-_____</b>
	:	
<b>THE PAWTUCKET RED SOX BASEBALL CLUB, LLC,</b>	:	
<i>Defendant.</i>	:	

**COMPLAINT**

**PRELIMINARY STATEMENT**

1. This is an action by the City of Pawtucket to recover damages from The Pawtucket Red Sox Baseball Club, LLC. The City's damages proximately result from the Team's failure and refusal fully to perform required maintenance, repair, and other obligations in connection with the Team's lease and use of City-owned McCoy Stadium. As such, the Team is responsible to the City for significant damages, including the costs of necessary repair, replacement, and other work on the Stadium and its site.

**PARTIES**

2. Plaintiff City of Pawtucket ("City") is a Rhode Island municipal corporation. The City owns that land and facility in Pawtucket, Rhode Island, known as McCoy Stadium, including its parking and adjacent land areas and improvements ("Stadium").
3. Defendant The Pawtucket Red Sox Baseball Club, LLC ("Team") is a Rhode Island limited liability company with a principal place of business in Pawtucket Rhode Island. The Team is a converted entity successor to the Pawtucket Red Sox Baseball Club, Inc. From January 1998 through January 2021, the Team had possession and use of the Stadium pursuant to a lease-sublease and subject to, among other things, requirements for the Stadium's maintenance, repair, and other work.

**JURISDICTION AND VENUE**

4. This Court has jurisdiction over the action pursuant to R.I. Gen. Laws §§ 8-2-13 and 8-2-14.
5. Venue in this Court is proper pursuant to R.I. Gen. Laws §§ 9-4-2 and 9-4-3.

**ALLEGATIONS**

6. McCoy Stadium is a baseball stadium located in Pawtucket, Rhode Island.

7. The Stadium is owned by the City of Pawtucket.
8. The Stadium was completed in 1942 and first hosted a professional minor league team in 1946, the Pawtucket Slaters, a Class-B affiliate of the Boston Braves.
9. In 1966, the Stadium was home to the Pawtucket Indians, a Double-A, Eastern League affiliate of the Cleveland Indians.
10. From 1970 through 2020, the Stadium served as home field and the principal place of business for the Team (commonly known as the “PawSox”), which is a Minor League Baseball, Triple-A, International League affiliate of the Boston Red Sox.
11. From January 1998 through January 2021, the Team possessed and used the Stadium pursuant to the terms and conditions of a Lease and Agreement (“Lease”) and a Sublease and Agreement (“Sublease”), which companion agreements were component parts of a 1998, \$11 million “Project” documented and governed by a group of related and interdependent agreements (collectively, “Agreement”) between the City, Team, the Team’s shareholders, the State of Rhode Island (“State”), the Rhode Island Economic Development Corporation (“EDC”), and Fleet Bank.
12. The purpose of the Project and Agreement was to finance and redesign, reconstruct, renovate, improve, upgrade, and equip the Stadium in order to keep and maintain the operation of the Team’s professional baseball franchise at the Stadium.
13. The Project began in 1998 and included work on structural and seating issues, handicap accessibility, souvenir and concession facilities, luxury boxes, parking areas, and added seating sections, which expanded the Stadium’s capacity from 7,002 to 10,031. Included in the Project was a popular, terraced berm in left field, where fans could sit on a grassy knoll next to the PawSox bullpen, and a signature, three-story entry/exit tower down the left-field line, which provides access to all seating areas in lieu of the circular ramps that still remain behind home plate.
14. In 1977, the PawSox drew an average of only 1,082 fans per game. In 1999, the first baseball season after completion of the Project, the PawSox averaged a paid attendance of 8,403 per game and, in 2000, it increased to 8,733. That latter figure represented 87% of every seat for every game being sold (where no other team in the league was above 70%). With a paid attendance of 688,421, the 2005 PawSox ranked fourth among all minor-league teams in any sport in north America and, in New England, ranked as the biggest draw of any sport except the Red Sox at Fenway Park.
15. Among other things, the Lease and Sublease obligated the Team and its shareholders to perform certain maintenance, repair, and other work on the Stadium at its own cost and expense.
16. Among other things, in the Lease and Sublease, the Team made an express covenant, at its own cost and expense, to ensure prompt compliance with all laws, rules, regulations and other governmental requirements applicable to the Stadium and its use.

17. In November 2005, the City, State, and Team entered into an amendment to the Lease and Sublease (“First Amendment”).
18. The First Amendment called for the State invest \$1,480,000.00 for additional capital improvements to the Stadium subject to a 5-year extension of the original Lease and Sublease to an amended termination date of January 31, 2016.
19. In March 2014, the City, State, and Team entered into a second amendment to Lease and Sublease (“Second Amendment”).
20. The Second Amendment called for the State and Team to co-fund a full facility feasibility study covering all components of the Stadium and intended to culminate in a multi-year schedule for Stadium repairs and replacements. The Second Amendment additionally extended the terms of the Lease and Sublease five years to an amended termination date of January 31, 2021.
21. In November 2014, it was publicly reported that members of the Boston Red Sox ownership group and others were in the process of purchasing the Team.
22. In February 2015, the Team was sold to a 10-member ownership group a group headed by then-Boston Red Sox president and chief executive officer Larry Lucchino and Rhode Island attorney James J. Skeffington, which group also included Fenway Sports Management, a sister company of the Boston Red Sox.
23. Also in February 2015, articles were filed with the Rhode Island Secretary of State converting the Team from a corporation to a limited liability company.
24. In February 2015, the new ownership group announced that they planned to move the Team to Providence. By September of 2015, however, that plan had collapsed, and the State, City, and Team focused on the condition of the Stadium, its deficiencies and repairs, and whether to renovate or demolish it and rebuild a new facility on the site.
25. In 2016, the State, City, and Team engaged Pendulum – a Kansas City, Missouri-based architectural practice that specializes in the design and documentation of sports facilities – and commissioned it to study and provide a detailed and comprehensive report on the existing condition of the Stadium. Pendulum was also tasked with making recommendations for renovation without demolition as well as the feasibility of demolishing the Stadium and rebuilding a new facility on the site.
26. In connection with that engagement Pendulum produced a report, the *McCoy Stadium Study, Final Report* dated January 26, 2017 ( “Pendulum Report”). The Pendulum Report provided detailed documentation of the condition of the Stadium, including numerous, significant deficiencies in the condition of the Stadium and its systems as well as issues associated with deferred maintenance, water infiltration, and other factors. The Pendulum Report also documented the magnitude of those deficiencies and issues and provided cost estimates totaling approximately \$35 million (in 2018 dollars) for their maintenance, repair, replacement, and cure.

27. While the Team cured some deficiencies in the condition of the Stadium identified in the Pendulum Report, it did not address numerous others and, to date, there remain significant, costly deficiencies in the condition of the Stadium resulting from the Team's failure and refusal to comply with its maintenance, repair, and other obligations under the Lease and Sublease.
28. Following a finance-related rejection by the Team of a proposed downtown Pawtucket stadium proposal to house the PawSox, in August 2018, the Team announced that it would relocate to a new stadium in Worcester, Massachusetts for the 2021 season.
29. In July 2020, the Team gave formal notice that it would not be extending the term of the Stadium Sublease beyond its amended termination date of January 31, 2021.
30. In October 2020, the City notified the Team that the Team had failed to observe and perform its obligations under the Lease and Sublease with respect to deficiencies in the condition of the Stadium identified in the Pendulum Report. In said notice, the City demanded that the Team cure all such deficiencies before the expiration of the Lease and Sublease on January 31, 2021, or, alternatively, that the Team tender to the City the full, complete, and total cost to remedy and cure its failure to observe and perform its obligations under the Lease and Sublease with respect to the deficiencies in the condition of the Stadium.
31. In November 2020, the Team replied to the City's October 2020 notice and demand, contending that it is in full compliance with its obligations under the Lease and Sublease, including the care and upkeep of the Stadium.
32. Consistent with the position taken in its November 2020 full-compliance letter, the Team departs the Stadium at the amended termination date of January 31, 2021, without addressing, making arrangement for, remedying, or curing the deficiencies in the condition of the Stadium resulting from the Team's failure and refusal to comply with its maintenance, repair, and other obligations under the Lease and Sublease.
33. The Team's departure from Pawtucket in January 2021, without discharging its obligations to address and cure said deficiencies leaves the City, as owner of the Stadium, with costly deficiencies, conditions, waste, damage, and injury in and to the Stadium and its systems requiring significant repair and/or replacement or other work.

**COUNT I**  
(Breach of Agreement)

34. Paragraphs 1-33 above are hereby incorporated by reference.
35. Defendant, at its own cost and expense, was and is obligated under the Agreement, Lease, and Sublease to perform certain maintenance, repair, and other work on the Stadium.
36. The Team's failures and refusal fully to perform required maintenance, repair, and other obligations in connection with Defendant's lease and use of the City-owned McCoy Stadium breached Defendant's performance obligations under the Agreement, Lease, and Sublease.

37. The City fully performed its obligations to Defendant under the Agreement, Lease, and Sublease.
38. As a direct and proximate result of the Defendant's breaches of performance obligations under the Agreement, Lease, and Sublease, as aforesaid, there are numerous, costly deficiencies and conditions in the Stadium and its systems requiring repair and/or replacement or other work.
39. As a direct and proximate result of the Defendant's breaches of performance obligations under the Agreement, Lease, and Sublease, as aforesaid, the City, as owner of the Stadium, is burdened by numerous, costly deficiencies and conditions in the Stadium and its systems requiring repair and/or replacement or other work.
40. As a direct and proximate result of the Defendant's breaches of its performance obligations under the Agreement, Lease, and Sublease, as aforesaid, the City, as owner of the Stadium, has sustained (and will sustain) significant direct and indirect damages, including: the costs, fees, and expenses required to repair and/or replace the numerous, costly deficiencies and conditions in the Stadium and its systems resulting from Defendant's breaches; loss of use, revenue, rentals, and business opportunities; attorneys' fees, costs, and expenses; and other damages.

**WHEREFORE**, Plaintiff City of Pawtucket demands judgment against Defendant Pawtucket Red Sox Baseball Club, LLC in an amount greatly exceeding the jurisdictional requirements of this Court, together with interest and costs, and all other just and proper relief.

**COUNT II**  
(Breach of Covenant)

41. Paragraphs 1-37 above are hereby incorporated by reference.
42. At all material times in connection with the Agreement, Lease, and Sublease, Defendant made an express covenant against waste, damage, and injury, specially covenanting not to do or suffer or permit any waste, damage, disfigurement or injury to, or public or private nuisance upon, the Stadium.
43. In breach of said covenant, Defendant caused and permitted waste, damage, and injury to the Stadium by failure and refusal, as aforesaid, fully to perform required maintenance, repair, and other obligations in connection with Defendant's lease and use of the City-owned McCoy Stadium.
44. As a direct and proximate result of the Defendant's breaches of covenant, as aforesaid, there are numerous, costly deficiencies, conditions, waste, damage, and injury in and to the Stadium and its systems requiring repair and/or replacement or other work.
45. As a direct and proximate result of the Defendant's breaches of covenant, as aforesaid, the City, as owner of the Stadium, is burdened by numerous, costly deficiencies, conditions,

waste, damage, and injury in and to the Stadium and its systems requiring repair and/or replacement or other work.

46. As a direct and proximate result of the Defendant's breaches of covenant, as aforesaid, the City, as owner of the Stadium, has sustained (and will sustain) significant direct and indirect damages, including: the costs, fees, and expenses required to repair and/or replace the numerous, deficiencies, conditions, waste, damage, and injury in and to the Stadium and its systems resulting from Defendant's breaches; loss of use, revenue, rentals, and business opportunities; attorneys' fees, costs, and expenses; and other damages.

**WHEREFORE**, Plaintiff City of Pawtucket demands judgment against Defendant Pawtucket Red Sox Baseball Club, LLC in an amount greatly exceeding the jurisdictional requirements of this Court, together with interest and costs, and all other just and proper relief

**COUNT III**  
(Breach of Covenant)

47. Paragraphs 1-37 above are hereby incorporated by reference.
48. At all material times in connection with the Agreement, Lease, and Sublease, excepting structural repairs or alterations, Defendant made an express covenant, at their own cost and expense, to ensure prompt compliance with all laws, rules, regulations, and other governmental requirements applicable to the Stadium and its use.
49. In breach of said covenant, Defendant failed to ensure prompt compliance with laws, rules, regulations, and other governmental requirements applicable to the Stadium and its use, including, for example, those pertaining to handicap accessibility.
50. As a direct and proximate result of the Defendant's breaches of covenant, as aforesaid, there are conditions at the Stadium requiring repair and/or replacement or other work for the Stadium to be compliant with laws, rules, regulations, and other governmental requirements applicable to the Stadium and its use.
51. As a direct and proximate result of the Defendant's breaches of covenant, as aforesaid, the City, as owner of the Stadium, is burdened by repair and/or replacement or other work required for the Stadium to be compliant with laws, rules, regulations, and other governmental requirements applicable to the Stadium and its use.
52. As a direct and proximate result of the Defendant's breaches of covenant, as aforesaid, the City, as owner of the Stadium, has sustained (and will sustain) significant direct and indirect damages, including: the costs, fees, and expenses for repair and/or replacement or other work required for the Stadium to be compliant with laws, rules, regulations, and other governmental requirements applicable to the Stadium and its use; attorneys' fees, costs, and expenses; and other damages.

**WHEREFORE**, Plaintiff City of Pawtucket demands judgment against Defendant Pawtucket Red Sox Baseball Club, LLC in an amount greatly exceeding the jurisdictional requirements of this Court, together with interest and costs, and all other just and proper relief.

**COUNT IV**  
(Waste)

53. Paragraphs 1-37 above are hereby incorporated by reference.
54. At all material times, Defendant was in rightful possession of the City-owned Stadium.
55. At all material times, Defendant, in rightful possession of the City-owned Stadium, owed the City a duty to refrain from harmful or destructive use of the Stadium.
56. At all material times, Defendant, in rightful possession of the City-owned Stadium, owed the City a duty to refrain from committing waste to the Stadium by acts of omission, including the failure reasonably to maintain and repair the Stadium and ensure its compliance with law.
57. In breach of said duties, as aforesaid, Defendant committed waste to the Stadium.
58. In breach of said duties, as aforesaid, Defendant failed reasonably to maintain and make repairs to the Stadium to ensure its compliance with law.
59. As a direct and proximate result of the Defendant's breaches, as aforesaid, there are numerous, costly deficiencies, conditions, waste, damage, and injury in and to the Stadium and its systems requiring repair and/or replacement or other work.
60. As a direct and proximate result of the Defendant's breaches, as aforesaid, the City, as owner of the Stadium, is burdened by numerous, costly deficiencies, conditions, waste, damage, and injury in and to the Stadium and its systems requiring repair and/or replacement or other work.
61. As a direct and proximate result of the Defendant's breaches, as aforesaid, the City, as owner of the Stadium, has sustained (and will sustain) significant damages, including: the costs, fees, and expenses required to repair and/or replace the numerous, deficiencies, conditions, waste, damage, and injury in and to the Stadium and its systems resulting from Defendant's breaches; loss of use, revenue, rentals, and business opportunities; attorneys' fees, costs, and expenses; and other damages.

**WHEREFORE**, Plaintiff City of Pawtucket demands judgment against Defendant Pawtucket Red Sox Baseball Club, LLC in an amount greatly exceeding the jurisdictional requirements of this Court, together with interest and costs, and all other just and proper relief.

**COUNT V**  
(Unjust Enrichment)

62. Paragraphs 1-37 above are hereby incorporated by reference.

63. By permitting Defendant to possess and use the Stadium for professional minor league baseball activities from January 1998 – January 2021, The City conferred a benefit of significant value on Defendant.
64. Defendant appreciated, received, and accepted said benefit over the entire course of said period.
65. The facts and circumstances, as aforesaid, are such that it would be inequitable and unjust for Defendant to retain said benefit without paying the City the value thereof.

**WHEREFORE**, Plaintiff City of Pawtucket demands judgment against Defendant Pawtucket Red Sox Baseball Club, LLC in an amount greatly exceeding the jurisdictional requirements of this Court, together with interest and costs, and all other just and proper relief.

**DEMAND FOR TRIAL BY JURY**

Plaintiff hereby claims and demands a trial by jury on all counts and claims so triable.

**Plaintiff,**

**THE CITY OF PAWTUCKET,**

**By Its Attorneys,**

*/s/ Michael T. Eskey*

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**Dated: January 7, 2021**