

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ROCKLAND

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TZ VISTA LLC, DCAK-MSA	:	
ARCHITECTURE & ENGINEERING, PC,	:	
DRAZEN CACKOVIC, and JULIA	:	INDEX NO. _____
KHOMUT,	:	
	:	<b><u>COMPLAINT</u></b>
Plaintiffs,	:	
	:	JURY TRIAL DEMANDED
v.	:	
	:	
WILLIAM HELMER, FOOT OF MAIN, LLC,	:	
and HELMER CRONIN CONSTRUCTION,	:	
INC.,	:	
	:	
Defendants.	:	
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Plaintiffs, by and through their attorneys Denlea & Carton LLP, respectfully file this Complaint and allege as follows:

**NATURE OF THE ACTION**

1. This action seeks (i) to compel the defendants to honor their contractual obligations in accordance with the terms of the parties’ written agreement, specifically Defendants’ promise to transfer a parcel of land necessary to the successful development of a significant, mixed-use real estate project in Nyack, New York, and (ii) to recover financial recompense for the ongoing contractual and fiduciary breaches committed by a rogue, self-dealing managing member who is interested only in benefiting himself at the expense of his company and business partners.

2. In or about 2015, the parties entered into a written agreement for the purchase, development, management, sale, and lease of unique riverfront property in Nyack, New York. Included in this agreement was an option to acquire a parcel of land owned by the defendants. While the plaintiffs worked tirelessly to garner support and governmental approvals, design

plans for both commercial space and residential facilities, and prepare multiple proposals to address government-mandated requirements, the defendants have reaped the benefits while avoiding their concomitant responsibilities, billed the plaintiffs outrageous amounts for construction services, and engaged in destructive behavior that caused irreparable damage to the buildings, potential tenant relationships, and the development project's reputation, causing millions of dollars in damages to the company through inaction, overbilling, and outright neglect. Additionally, in contravention of the parties' written operating agreement, and in furtherance of their own selfish financial interests, the defendants have refused to transfer the subject parcel of land and are positioning themselves to convert the multi-million dollar property for their own exclusive development.

3. Accordingly, the plaintiffs bring this action to hold the defendants to the terms of their written agreement, and to staunch the bleeding caused by the defendants' gross and wanton misconduct.

### **PARTIES**

4. TZ Vista LLC is a New York domestic limited liability company with a principal place of business at 27 Route 210, Stony Point, New York 10980.

5. DCAK-MSA Architecture & Engineering, PC is a domestic professional corporation with a principal place of business at 53 Hudson Avenue, Nyack, New York 10960.

6. Drazen Cackovic is a natural person of full age of majority, domiciled and residing in Westchester County, New York.

7. Julia Khomut is a natural person of full age of majority, domiciled and residing in Rockland County, New York.

8. Upon information and belief, William Helmer is a natural person of full age of majority, domiciled and residing in Rockland County, New York.

9. Upon information and belief, Foot of Main, LLC is a domestic limited liability company with a principal place of business at 27 Route 210, Stony Point, New York 10980, and is wholly owned by William Helmer.

10. Upon information and belief, Helmer Cronin Construction, Inc. a/k/a Helmer Cronin-Murnane, LLC is a domestic limited liability company with a principal place of business at 27 Route 210, Stony Point, New York 10980, and is owned and operated by William Helmer.

### **JURISDICTION AND VENUE**

11. The Court has subject matter jurisdiction over this action and personal jurisdiction over this matter because the amount in controversy exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction, the parties are located within the State of New York, the parties have and continue to regularly conduct business within the State of New York, the real estate in controversy is located in the State of New York, and the events at issue occurred in the State of New York.

12. Venue is proper in this county pursuant to CPLR 507 because judgment would affect title to, or the possession, use, or enjoyment of, real property situated in this county. Venue is also proper in this county pursuant to CPLR 503 because all of the parties operate out of and/or reside in this county.

## FACTS

### **I. TZ Vista, the TZ Vista Project and the Parcel**

13. TZ Vista LLC (“TZ Vista”) was formed in or about 2014 to purchase, develop, manage, sell, lease, and mortgage certain properties located along the Hudson River in downtown Nyack, New York for the “TZ Vista Project.”

14. The TZ Vista Project is a real estate development project that involves water front property in downtown Nyack, New York, including a bistro and a multi-family residential complex. The TZ Vista Project has been in development for over five years and will include 128 residences in three mid-rise buildings and a string of water front town homes, together with a water front public park and underground parking facilities. TZ Vista Project also includes a partially renovated approximately 40,000 square foot office building in downtown Nyack.

15. The TZ Vista Project has been designed to preserve and maximize the views of the Hudson River and allow public access to the water front promenade, using sustainable practices while blending with the existing architecture of historic Nyack.

16. Part of the TZ Vista Project includes a water front parcel of land located at the intersection of Gedney Street and Main Street, Tax ID No. 66.39-1-2 (the “Parcel”). The Parcel is presently owned by Foot of Main, LLC (“Foot of Main”) which in turn is owned by Helmer.

### **II. The Operating Agreement**

17. TZ Vista has three members: Drazen Cackovic, Julia Khomut, and William Helmer.

18. On or about January 13, 2015, Cackovic, Khomut, and Helmer executed the Operating Agreement of TZ Vista LLC (the “Operating Agreement”). The Operating Agreement is attached hereto as **Exhibit 1**.

19. Cackovic and Helmer are both “Managing Members” of TZ Vista, and accordingly are responsible for “[t]he overall management and control of all aspects of the business and affairs of the Company[.]” (Operating Agreement § 4.1.) Pursuant to the terms of the Operating Agreement, “[t]he consent of both Managing Members shall be required with respect to the management, conduct and operation of company business,” including decisions concerning the day-to-day operations of TZ Vista, the purchase, sale, and lease of any properties, the hiring of any subcontractors or consultants, and the payment of company invoices.

20. The parties agreed that architectural and engineering services would be provided by a company related to Cackovic and Khomut, and construction management services would be provided by a company, HCC, related to Helmer. (Operating Agreement § 4.5.) For both related companies, however, “[p]rice and scope of services shall be agreed upon by the Managing Members” prior to the commencement of any work. (*Id.*) The parties also agreed that construction work would be engaged “on the most favorable market prices and terms” and would not be required to be based on union or prevailing wages. (*Id.*)

21. Included in the Operating Agreement is an option for TZ Vista to purchase the Parcel from Foot of Main, LLC (“Foot of Main”) at Cackovic’s sole direction on or before January 13, 2020. Specifically, the Operating Agreement states:

Notwithstanding anything contained herein to the contrary, Drazen Cackovic shall have an irrevocable right to require [TZ Vista] to purchase Parcel 7, Tax ID No. 66.39-1-2, from Foot of Main, LLC at any time during the 60 months after the date of this agreement [*i.e.*, January 13, 2015], and in such event, Foot of Main, LLC agrees to immediately transfer Parcel 7 to [TZ Vista], as set forth in this Article 9[.] . . . By signing this Agreement, William Helmer and Foot of Main, LLC represent and affirm that there are no other persons with any interest in Parcel 7 other than Foot of Main, LLC, and there are no other Persons with any interest in Foot of Main, LLC other than William Helmer, except as may otherwise be set

forth herein, and that William Helmer is the sole Member and Manager of Foot of Main, LLC with powers to effect this sale.

(Operating Agreement § 9.1.)

22. The Operating Agreement details the purchase price for the Parcel in a schedule, and explicitly states that:

[t]he transfer of ownership will occur at such time as Drazen Cackovic determines that it is advisable for [TZ Vista] to become the owner of Parcel 7 in furtherance of [TZ Vista] advancing its development of any portion of the Properties, including the application for or obtaining of any governmental approvals, consents, permits, subdivision or merger relating thereto.

(Operating Agreement § 9.2.)

23. The parties agreed that in the event of litigation between TZ Vista and any of its members, the prevailing party is reimbursed all legal costs and expenses, including, but not limited to, attorney's fees. (Operating Agreement § 13.12.)

24. The Operating Agreement was executed by all three members (Helmer, Cackovic, and Khomut), executed a second time by both managing members (Helmer and Cackovic), and finally executed by William Helmer a third time as the manager of Foot of Main as to Article 9 concerning the sale of the Parcel to TZ Vista. (Operating Agreement at p.40.)

### **III. Cackovic and Khomut Diligently Perform All Duties Under the Operating Agreement and Create Enormous Value in the TZ Vista Project**

25. Cackovic and Khomut, acting through their architectural and engineering company, DCAK-MSA Architecture & Engineering, PC ("DCAK"), began design work on the properties that would form the TZ Vista Project as architects before TZ Vista was even formed. Upon the execution of the Operating Agreement, Cackovic, Khomut, and DCAK continued to tirelessly work to advance the architectural, engineering, planning, and public relations work for the TZ Vista Project.

26. This work included the renovation of the office building location, which was acquired in 2016. Cackovic, Khomut, and DCAK prepared detailed design plans for the renovation of the building and prepared the submission to obtain a building permit for the property. During the construction phase of the renovation, Cackovic, Khomut, and DCAK also performed construction administration services and designed additional details, revisions, and improvements.

27. With respect to the riverfront development, Cackovic, Khomut, and DCAK spearheaded presentations to the mayor and later village boards of Nyack, prepared plans for remediation of contamination with HDR, and led the multi-year land use approval process through Village and Planning Board approval. During the course of this approval process, Cackovic, Khomut, and DCAK undertook multiple design changes to address the concerns of the community – and the Village of Nyack – concerning waterfront access, public park space, riverfront viewscape, historic waterfront displays, and underground parking. Additionally, Cackovic, Khomut, and DCAK prepared the civil engineering and architectural construction documents, and oversaw outside consultants who prepared structural, mechanical, electrical, and plumbing construction documents for the riverfront property development.

28. Whenever subconsultants were required for the planning, engineering, or public relations aspects of the TZ Vista Project, Cackovic would arrange a meeting with Helmer, and would only proceed to engage the subconsultants after obtaining Helmer's express approval. Additionally, these subconsultants were paid only after Helmer approved their invoices, or delegated this responsibility to Cackovic.

29. Although Cackovic, Khomut, and DCAK were expressly empowered to perform this work under the Operating Agreement (*see* Operating Agreement § 4.5(a)), had Helmer's

approval for the work performed, and dutifully submitted invoices for all of this work to TZ Vista, Helmer has refused to authorize TZ Vista to pay these outstanding invoices.

30. Additionally, Helmer and Cackovic agreed that for the ease of administration, Cackovic would maintain all bookkeeping records for TZ Vista. Accordingly, Cackovic diligently maintained all books and records for the company, and provided Helmer and his personal accountants with access to all electronic records of statements, invoices, and payment records whenever requested. Cackovic is not paid for this additional work performed for TZ Vista.

**IV. Helmer Engages in Self-Dealing and Serially Fails to Perform Duties Under the Operating Agreement, Stalling the TZ Vista Project at Great Expense to Plaintiffs**

31. In stark contrast to Cackovic's and Khomut's diligent performance of their responsibilities and duties under the Operating Agreement, Helmer has persistently sought to benefit himself and his construction company, HCC, at the expense of TZ Vista, and has willfully and maliciously engaged in a pattern of conduct aimed at delaying the progress of the TZ Vista Project, increasing company expenses, and lining his own pockets.

32. Contrary to the express terms of the Operating Agreement, Helmer routinely failed to get approval from Cackovic for construction expenses, *expenses that were paid to Helmer's own construction company, HCC*. Additionally, Helmer often hired subcontractors at enormous expense without the approval – and sometimes over the express disapproval – of Cackovic and Khomut. As a result of this self-dealing, HCC spent over \$1,200,000 more for construction than budgeted or approved, costs that Helmer has billed (and will continue to bill) to TZ Vista.

33. Helmer also failed to provide TZ Vista with critical financial records concerning the construction that was performed for the TZ Vista Project, including invoices and applications



for payments from subcontractors. Indeed, at times Helmer would simply demand hundreds of thousands of dollars for “labor” without any explanation of what work was allegedly performed. More egregiously, Helmer failed to provide TZ Vista with copies of lien releases, suggesting that Helmer has been overcharging TZ Vista for the work performed by his subcontractors and taking a kickback.

34. Additionally, Helmer has been delinquent – and at times downright absent – in executing his obligations as a Managing Member. Pursuant to the terms of the Operating Agreement, the day-to-day operations of TZ Vista require consent and approval from both Cackovic and Helmer. However, Helmer has routinely ignored critical deadlines, failed to review overdue financial documents, refused to approve time-sensitive action items, and generally been an impediment in the advancement of the TZ Vista Project. Frequently, Helmer never responds to emails or calls at all, bringing progress to a standstill and threatening to wipe out valuable governmental approvals.

35. For example, Helmer routinely failed to forward invoices and other time-sensitive documents that he received to Cackovic for payment on behalf of TZ Vista, resulting in late payments and fees.

36. Similarly, Helmer has failed to review or approve leases, ignoring multiple offers to rent available space. One offer was to rent most of the outstanding space in one of the buildings, yet Helmer failed to respond. As a result, space in the office building remains unoccupied, TZ Vista is not receiving rental payments, and interest in the office property is waning.

37. Helmer has inexplicably stalled filing papers with the New York State Attorney General’s office for months, which, in turn, has prevented TZ Vista from obtaining construction

financing. Helmer has also refused to approve certain basic prerequisites for such approval, including the creation of a website.

38. Helmer has failed to provide any construction cost estimates since March of 2019, and has failed to provide any input on value engineering on the TZ Vista Project. Indeed, Helmer has repeatedly refused to consider less expensive labor costs, and even refused to permit TZ Vista to employ an independent cost consultant to stymie the runaway construction costs.

39. In December of 2019, Helmer unilaterally decided to shut down the boiler in one of the buildings owned by TZ Vista, leaving the property without any heat in the wintertime. Helmer's unapproved actions have put TZ Vista's relationship with its lessee at risk, and will cause irreparable damage to the physical building itself.

40. As a result of Helmer's refusal to provide basic information to the other members, TZ Vista had to abandon plans to form a separate limited liability company to hold the buildings for the waterfront property – a structure that would have provided for more favorable banking terms, a stronger marketing position, and easier administration going forward. Helmer never provided a rationale for his unwillingness to create this bifurcated structure; rather, he simply ignored countless emails, calls, and letters requesting his consent and approval for the new form.

41. Helmer's chronic delays have ensured that governmental approvals worth tens of millions of dollars will expire, costing Plaintiffs the lost value of the approvals as well as taxes and interest.

**V. Helmer Refuses to Transfer the Parcel to TZ Vista in Accordance with the Terms of the Operating Agreement**

42. In the Spring of 2019, Cackovic determined that the transfer of the Parcel to TZ Vista was advisable to further the development of the TZ Vista Project.

43. Accordingly, on April 3, 2019 Cackovic informed Helmer that he was directing the transfer of the Parcel from Foot of Main. At the time, Cackovic suggested that the Parcel be transferred to a newly-formed limited liability company, Tidewater, which was envisioned to be created simultaneously and to acquire the option for the Parcel from TZ Vista. Helmer never responded to the directive. Cackovic repeated his directives to Helmer through emails sent on April 17 and June 6. Again, Helmer never responded.

44. On July 16, Cackovic again informed Helmer that Cackovic was instructing Foot of Main to transfer the Parcel, this time to TZ Vista. Helmer did not respond. On July 17, Cackovic again informed Helmer that the Parcel was to be transferred to TZ Vista. Still, Helmer did not respond.

45. On August 9, Cackovic emailed Helmer a signed letter dated August 8, 2019, that stated:

Please be advised that pursuant to Article Nine of the Operating Agreement of TZ Vista, LLC (i) Drazen Cackovic has determined that it is advisable for TZ Vista, LLC to become the owner of the [Parcel] described above in furtherance of TZ Vista, LLC advancing its development of a portion or portions of the Property, and (ii) Drazen Cackovic hereby requires that TZ Vista, LLC immediately purchase from Foot of Main, LLC the [Parcel] described above and that Foot of Main, LLC immediately transfer the said [Parcel] to TZ Vista, LLC, all pursuant to the provisions of Article Nine of the TZ Vista, LLC Operating Agreement.

A copy of the August 8 letter is attached hereto as **Exhibit 2**. As before, Helmer did not respond.

46. On August 15, August 20, September 25, and October 15, Cackovic again emailed Helmer to repeat his instruction that Foot of Main transfer the Parcel to TZ Vista, again without any response from Helmer.

47. On December 4, approximately eight months after Cackovic first directed the transfer of the Parcel, Helmer, writing on TZ Vista letterhead, finally agreed that Foot of Main would transfer the Parcel to the originally proposed limited liability company, Tidewater, ignoring months of correspondence clarifying the recipient of the real estate. Additionally, in direct contravention of the terms of the Operating Agreement, Helmer decreed “[w]hen the transfer of Foot of Main property to Tidewater occurs, Helmer will simultaneously transfer 30 feet of shore line plus the riparian rights to the Village of Nyack.” Additionally, Helmer conditioned the transfer of the Parcel on agreement to six other never-before contemplated requirements. A copy of the December 4 letter is attached hereto as **Exhibit 3**.

48. After Cackovic rejected Helmer’s self-serving and unsupported counteroffer and repeated his directive that Foot of Main transfer the Parcel in accordance with the terms of the Operating Agreement, Helmer’s representative, by email dated December 12, 2019, agreed “[Helmer] will deliver the deed from Foot of Main first week of January. I would like to get confirmation that the purchase price is \$2,640,000.” A copy of the December 12 email is attached hereto as **Exhibit 4**.

49. By letter dated December 24, however, Helmer withdrew this offer, and issued his “own ultimatum,” imposing multiple conditions upon the transfer of the Parcel, all without any support whatsoever in the Operating Agreement, and contrary to the Agreement’s specific terms.

50. As of the date of this filing, the Parcel remains in the possession of Foot of Main, and has not been transferred to TZ Vista. Foot of Main’s failure to transfer the Parcel to TZ Vista has prevented the consummation of a land transfer agreement with the Village of Nyack, and has delayed the issuance of the building permit for the Parcel.

51. Upon information and belief, Helmer, acting through Foot of Main, has entered or is about to enter a land transfer agreement with the Village of Nyack without the involvement of TZ Vista.

**VI. Plaintiffs Have Been Damaged**

52. As a result of Defendants' misconduct, Plaintiffs have been unable to complete the TZ Vista Project on schedule, have overpaid HCC for unsubstantiated construction costs, have unpaid invoices accruing default interest, are at risk of losing critical permits and governmental approvals for development, have lost rent payments from prospective lessees, and have damaged physical property.

53. Additionally, Defendants' refusal to transfer the Parcel to TZ Vista and instead commence construction for their own benefit will cause irreparable injury to Plaintiffs, as the Parcel is unique, irreplaceable real estate.

54. Furthermore, as a result of Defendants' misconduct, Plaintiffs have incurred legal fees and expenses.

**FIRST CAUSE OF ACTION**  
**(Breach of Contract/Specific Performance)**

55. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

56. The Operating Agreement is a valid, binding, and enforceable contract.

57. Plaintiffs have performed all of their obligations in connection with the Operating Agreement.

58. Plaintiffs have also made demand for the transfer of the Parcel to TZ Vista, and are ready, willing, and able to perform all remaining obligations in connection with the transfer of the Parcel.

59. Defendants have breached their contractual obligations to Plaintiffs under the Operating Agreement, including but not limited to their obligations to transfer the Parcel to TZ Vista.

60. Defendants are able to convey the Parcel to TZ Vista, and are not subject to any legal, contractual, or other impediment to completing the transfer.

61. As a result of Defendants' breaches of their contractual obligations to Plaintiffs under the Operating Agreement, Plaintiffs have been damaged in an amount to be proven at trial.

62. Additionally, because the Parcel is unique and irreplaceable real estate, Plaintiffs have no adequate remedy at law.

63. Accordingly, Plaintiffs also seek an award of specific performance directing Foot of Main and Helmer to convey the Parcel to Plaintiffs in accordance with the terms of the Operating Agreement.

64. Given the continuing and future harm to Plaintiffs from Defendants' failure to convey the Parcel to Plaintiffs in accordance with the terms of the Operating Agreement, and the balance of the equities in Plaintiffs' favor and lack of harm to Defendants from the imposition of an injunction, the Court should enjoin Defendants from transferring, conveying, selling, or otherwise encumbering the Parcel in favor of any person or entity other than TZ Vista.

**SECOND CAUSE OF ACTION**  
**(Breach of Fiduciary Duty)**

65. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

66. As a Managing Member of TZ Vista, Helmer owed and owes fiduciary duties to TZ Vista and the members of TZ Vista, and is obligated to act for TZ Vista's benefit, while subordinating his own interests to those of TZ Vista.

67. As a fiduciary, Helmer also owes TZ Vista and the members of TZ Vista a fundamental duty of undivided loyalty. Helmer owed TZ Vista a duty not to place himself in a position that was antagonistic to, and in conflict with, the interests of TZ Vista or its members.

68. As detailed above, Helmer breached his fiduciary duties to TZ Vista and its members by, among other things: (i) failing to act for TZ Vista's or its members' benefit; (ii) refusing to transfer the Parcel to TZ Vista; (iii) damaging TZ Vista's property, valuable assets, and business relationships; and (iv) placing his financial interests above the interests of TZ Vista and its members.

69. Helmer breached his fiduciary duties to TZ Vista and its members, in order to benefit himself at the expense of TZ Vista and its members.

70. By reason of the foregoing, Helmer is liable to Plaintiffs for the actual damages that Plaintiffs have suffered as a result of Defendants' actions, the amount of such damages to be determined at trial.

71. At all times, Helmer has acted with reckless disregard of Plaintiffs' rights and with malice and oppression in his motives, entitling Plaintiffs to punitive damages in an amount to be determined at trial.

**THIRD CAUSE OF ACTION**  
**(Conversion)**

72. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

73. Plaintiffs have exercised their contractual option to purchase the Parcel from Foot of Main, and have an immediate superior right of possession to the Parcel.

74. Helmer and Foot of Main are in possession, custody, and control of the Parcel to which they have no legal or contractual right.

75. Intentionally and without authorization, Helmer and Foot of Main have wrongfully exercised a right of ownership and dominion over the Parcel to the exclusion of Plaintiffs' rights, causing Foot of Main to retain the Parcel in contravention of the governing Operating Agreement.

76. Defendants' acts constitute dominion wrongfully exerted over the Plaintiffs' property in defiance of, and inconsistent with, Plaintiffs' rights in the Parcel.

77. As a result of the foregoing, Plaintiffs have been damaged in an amount to be proven at trial.

**FOURTH CAUSE OF ACTION**  
**(Prima Facie Tort)**

78. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

79. Defendants acted to cause injury to Plaintiffs through the wrongful conduct set forth herein.

80. Defendants undertook such wrongful conduct with the intent to cause injury to Plaintiffs.

81. Defendants undertook such wrongful conduct without any excuse or justification.

82. As a result of Defendants' wrongful conduct, Plaintiffs have suffered specific and measurable losses, including the loss of governmental approvals, loss of rental income, damage to building property, and delays in the TZ Vista Project.

83. By reason of the foregoing, Defendants are liable to Plaintiffs for the special damages that Plaintiffs have suffered as a result of Defendants' actions, the amount of such damages to be determined at trial.



**FIFTH CAUSE OF ACTION**  
**(Quantum Meruit)**

84. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

85. Plaintiffs have performed services in good faith.

86. Defendants have accepted the services performed by Plaintiffs, including the architectural and engineering services incident to the development of the Parcel.

87. Plaintiffs fully expected to be compensated for their efforts in providing architectural and engineering services through the receipt of payment for their services and through a share of the profits from the value of the developed Parcel.

88. Plaintiffs are entitled to the reasonable value of their services rendered in connection with the Parcel.

89. By reason of the foregoing, Defendants are liable to Plaintiffs for the actual damages that Plaintiffs have suffered as a result of Defendants' actions, the amount of such damages to be determined at trial.

**SIXTH CAUSE OF ACTION**  
**(Unjust Enrichment)**

90. Plaintiffs repeat and reallege the foregoing allegations as if fully set forth herein.

91. Plaintiffs have a direct relationship with Defendants.

92. Defendants benefitted and continue to benefit at Plaintiffs' expense from Plaintiffs' services and efforts in the development of the Parcel.

93. Plaintiffs have not been compensated for the services they provided.

94. Equity and good conscience require that Plaintiffs receive restitution for their efforts in the development of the Parcel.

95. By reason of the foregoing, Defendants are liable to Plaintiffs for restitution in an amount to be determined at trial.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- i. specific performance directing Foot of Main, LLC to comply with the terms and conditions of the Operating Agreement and to convey the Parcel to TZ Vista LLC in accordance therewith;
- ii. permanent enjoinder of Defendants from transferring, conveying, selling, or otherwise encumbering the Parcel in favor of any person or entity other than TZ Vista;
- iii. compensatory damages in an amount to be determined at trial;
- iv. the costs and disbursements of this action, including attorney's fees;
- v. pre- and post-judgment interest at the highest rate(s) provided by law;
- vi. punitive damages; and
- vii. such other and further relief as this Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiffs respectfully request a trial by jury as to all claims in this action.

Dated: January 15, 2020  
White Plains, New York

**DENLEA & CARTON LLP**



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