

STATE OF NEW YORK
SUPREME COURT COUNTY OF MONROE

CITY OF ROCHESTER,
30 Church Street, Room 400 A
Rochester, New York 14614,

Plaintiff,

SUMMONS

Index No.:

-vs-

LITTLE ITALY NEIGHBORHOOD ASSOCIATION, INC.
9 Bru Mar Drive
Gates, New York 14606,

Defendant.

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer on the plaintiff's attorney within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint. The basis of the venue designated is: the place of business of the parties and the location of the events giving rise to the suit are within the County of Monroe, New York.

DATED: April 13, 2018

TIMOTHY R. CURTIN
CORPORATION COUNSEL

BY: 

Patrick Beath, Esq., of Counsel
Attorneys for Plaintiff
30 Church Street, Room 400A City Hall
Rochester, New York 14614
Telephone: (585) 428-6812

TO: LITTLE ITALY NEIGHBORHOOD ASSOCIATION, INC.
9 Bru Mar Drive
Gates, New York 14606

STATE OF NEW YORK
SUPREME COURT COUNTY OF MONROE

CITY OF ROCHESTER,
30 Church Street, Room 400 A
Rochester, New York 14614,

COMPLAINT

Plaintiff,

Index No.:

-vs-

LITTLE ITALY NEIGHBORHOOD ASSOCIATION,
INC.
9 Bru Mar Drive
Gates, New York 14606,

Defendant.

Plaintiff, City of Rochester, by and through its attorneys, Timothy R. Curtin, Corporation Counsel, Patrick Beath, of counsel, alleges as follows:

1. This suit arises from the failure of the defendant, Little Italy Neighborhood Association, to pay for specially requested crowd and traffic control services of the Rochester Police Department that were provided during the 2017 Little Italy Festival, which took place at the Riverside Festival Site in downtown Rochester along the western shore of the Genesee River and across from the Monroe County Civic Center. This failure is a breach of the defendant's July 25, 2017 professional services agreement with the City of Rochester. As such, the City is entitled to damages in the amount of \$9,483.10, plus interest, costs, fees and disbursements.

2. The City of Rochester is a municipal organization incorporated under New York law, with its principal offices located at 30 Church Street in the City of Rochester.

3. The defendant, Little Italy Neighborhood Association, is a New York not-for-profit corporation with its principal place of business located at 9 Bru Mar Drive in the Town of Gates, New York.

4. According to defendant's Certificate of Incorporation, it works "to promote and bring about the revitalization, development and prosperity of the Little Italy Neighborhood and its surrounds." The Certificate describes this "Little Italy Neighborhood and its surrounds" as the area "along the Lyell Avenue and Spencerport Road corridor" between "Lee Road and Diplomat Way to the East end of said corridor" and "Elmgrove Road to the West end of said corridor".

5. This area identified by defendant as the "Little Italy Neighborhood and its surrounds" lies entirely within the Town of Gates.

6. Prior to 2017, the defendant held an annual Little Italy Festival in the Town of Gates.

7. When defendant attempted to schedule the 2017 Little Italy Festival, however, the Town of Gates refused to allow the festival to take place in that Town.

8. Press articles indicate that the Town of Gates had found financial discrepancies concerning profits made by defendant during the 2016 Little Italy Festival, and questioned whether those profits were donated to charity as required by Town rules. Those same press articles reflect that defendant disputed the claims of financial discrepancies made by the Town of Gates.

9. In any event, after being rejected by the Town of Gates, defendant arranged to hold the 2017 Little Italy Festival in the City of Rochester, on a parcel along the Genesee River south of the Blue Cross Arena and across the road from the Hall of Justice and Monroe County Civic Center, known as the Riverside Festival Site.

10. To assist the defendant in producing the 2017 Little Italy Festival, the City of Rochester agreed to provide \$4,000 to defendant.

11. To secure this investment, the City required defendant to enter into a professional services agreement (PSA), pursuant to which defendant agreed to, among other things, produce “a low-cost two-day event celebrating Italian-American heritage at the Riverside Festival Site on Saturday and Sunday, August 12-13, 2017.”

12. The PSA also explicitly required defendant to pay “all City bills, including but not limited to any equipment rental, police services, fire services and electrical services.” The PSA noted that some of these City bills “may require pre-payment.”

13. Defendant—through its President, Silvano Orsi—signed the PSA on July 17, 2017, agreeing to all of its terms.

14. Thereafter, defendant requested special police services from the Rochester Police Department (RPD) to provide security, traffic and crowd control for the 2017 Little Italy Festival.

15. On August 2, 2017 the RPD provided an estimate, anticipating, for each day of the festival, the assignment of one officer and one sergeant from noon to 5:00 p.m. and three officers and one supervisor from 5:00 p.m. to 11:30 p.m. The RPD also anticipated assigning two additional officers on August 13 leading up to and during the fireworks. This came to a total of 90 officer-hours at a cost of \$6,266.40.

16. Based upon this estimate, the RPD sent to defendant an Agreement memorializing the foregoing officer-hours and rates. The RPD requested that defendant execute and return the Agreement and directed defendant to pre-pay for the police services.

17. Defendant failed to execute the RPD Agreement or make the required prepayment prior to the Little Italy Festival.

18. Notwithstanding defendant's failure to pre-pay for the police services, defendant continued to request special police services during the August 12 and 13, 2017 Little Italy Festival.

19. Accordingly, the RPD provided the requested police services, totaling 70 officer-hours over the course of the weekend, less than the amount originally anticipated.

20. On September 1, 2017, the City sent to defendant an invoice for the 70 officer-hours of police services actually provided, totaling \$5,483.10.

21. The invoice instructed that payment was due within 30 days.

22. Defendant failed to pay this invoice.

23. By letter dated October 5, 2017, the City's then-Deputy Corporation Counsel wrote to defendant, demanding payment of the outstanding police invoice.

24. Still defendant failed to pay the invoice.

25. On March 20, 2018, the City made yet another written demand for payment of the police invoice.

26. To date, defendant has not paid the City for the police services requested and provided during the Little Italy Festival, in clear violation of the PSA's requirement that defendant pay for special police services.

AS AND FOR A FIRST CAUSE OF ACTION: BREACH OF CONTRACT

27. The PSA executed by defendant specifically provided that, in exchange for the \$4,000.00 paid to defendant by the City, defendant would pay "all City bills" including "police services" and that some billing may require pre-payment.

28. After agreeing in writing to pay for police services, defendant requested such services from the RPD.

29. Thereafter, the RPD sent defendant an Agreement to provide 90 officer-hours of police services at a cost of \$6,266.40, requesting that defendant execute the RPD Agreement and pre-pay the cost of police services.

30. Defendant failed to sign the RPD Agreement or pre-pay for the police services.

31. Despite defendant's non-payment for police services, the RPD still provided police services for the Little Italy Festival as requested by defendant.

32. Thereafter, the RPD sent defendant an invoice in the amount of \$5,483.10, representing the 70 officer-hours actually worked at the festival.

33. Defendant has failed to pay this amount.

34. Defendant's failure to pay for the RPD services is a breach of the PSA.

35. As damages for this breach, defendant owes the City both the cost of the police services provided in the amount of \$5,483.10, along with repayment to the City of the \$4,000.00 provided to defendant pursuant to the breached PSA.

36. Accordingly, defendant owes the City \$9,483.10.

AS AND FOR A SECOND CAUSE OF ACTION: UNJUST ENRICHMENT

37. Defendant requested special police services from the City during the 2017 Little Italy Festival.

38. Defendant failed to pre-pay for these services.

39. Nonetheless, the City of Rochester provided these services to defendant during the 2017 Little Italy Festival.

40. Thereafter, defendant was billed for the cost of these special police services, a total of \$5,483.10 for 70 officer-hours.

41. Despite requesting, receiving and benefiting from these special police services, defendant has failed to pay for these services.

42. Defendant has been unjustly enriched in the amount of \$5,483.10 by the provision of these special police services.

WHEREFORE, the City of Rochester respectfully requests that the Court grant judgment in its favor against defendant in the amount of \$9,483.10, plus costs, fees, disbursements, statutory interest and such other and further relief that the Court deems just and proper.

DATED: April 13, 2018

TIMOTHY R. CURTIN
CORPORATION COUNSEL

BY: 

Patrick Beath, Esq., of Counsel

Attorneys for Plaintiff

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