

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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THE BOARD OF MANAGERS OF THE 1 NORTHSIDE
PIERS CONDOMINIUM, THE BOARD OF MANAGERS
OF THE 2 NORTHSIDE PIERS CONDOMINIUM, and
BOARD OF MANAGERS OF EDGE 11211
CONDOMINIUM, on behalf of their respective individual
unit owners,

Index No.: 654849 /2020

SUMMONS

Plaintiffs,

Plaintiff designates New York
County as the place of trial.

-against-

THE CITY OF NEW YORK, by and through the NEW
YORK CITY DEPARTMENT OF PARKS AND
RECREATION,

The basis of venue is pursuant to
CPLR Rule 510, a written
agreement fixing New York
County as the place of trial, made
before this action was
commenced.

Defendant.


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TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve
a copy of your answer or, if the complaint is not served with this summons, to serve a notice of
appearance on Plaintiffs' 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 the
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.

Dated: New York, New York
September 30, 2020

Yours, etc.
BRAVERMAN GREENSPUN, P.C.

By:



Joseph Goljan
Attorneys for Plaintiffs
110 East 42nd Street, 17th Floor
New York, New York 10017
(212) 682-2900

TO: THE CITY OF NEW YORK, by and through
NEW YORK CITY DEPARTMENT OF PARKS AND RECREATION
The Arsenal, Central Park
830 Fifth Avenue
New York, New York 10065
Attn: Office of the General Counsel

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Index No.: /2020

COMPLAINT

Plaintiffs,

-against-

THE CITY OF NEW YORK, by and through the NEW
YORK CITY DEPARTMENT OF PARKS AND
RECREATION,

Defendants.

----- X

Plaintiffs, the Board of Managers of the 1 Northside Piers Condominium, the Board of
Managers of the 2 Northside Piers Condominium, and the Board of Managers of Edge 11211
Condominium, on behalf of their respective individual unit owners (collectively, "Plaintiffs"), by
and through their undersigned counsel, as and for their Complaint against the defendant, The City
of New York (the "City"), by and through the New York City Department of Parks and Recreation
("Parks," and together with the City, collectively, "Defendants"), allege as follows:

NATURE OF THE ACTION

1. Plaintiffs, in their respective capacities as the boards of managers of the 1 Northside
Piers Condominium, the 2 Northside Piers Condominium, and the Edge 11211 Condominium
(collectively, the "Condominiums"), and as parties to the Maintenance Agreements (defined
below) with the City, bring this action to enforce such agreements' terms, covenants and
conditions, to recover monetary damages from the City as a result of its repeated breaches of the
Maintenance Agreements, to compel the City to comply with its contractual obligations to provide

security and maintenance services in connection with the waterfront promenade and piers referred to herein as the Waterfront Access Areas (defined below), and to enjoin the City from further violation of its responsibilities under the Maintenance Agreements.

2. Indeed, despite Plaintiffs' annual payments of hundreds of thousands of dollars to the City in accordance with the Maintenance Agreements for the purpose of funding the maintenance and security of the Waterfront Access Areas, the City, by and through Parks, has failed to adequately maintain these areas, and instead has allowed the esplanade park and piers to fall into a state of complete disrepair, overridden with crime and unlawful activities.

THE PARTIES

3. Plaintiff, the Board of Managers of the 1 Northside Piers Condominium (the "1 Northside Piers Board") is the governing body of the 1 Northside Piers Condominium, a condominium organized and established pursuant to Article 9-B, Section 339-d, et seq., of the New York State Real Property Law ("RPL"), having its declaration and by-laws, dated November 13, 2007, recorded in the Kings County Office of the City Register of the City of New York (the "City Register") on November 28, 2007 under CRFN No. 2007000589984.

4. The 1 Northside Piers Condominium is comprised of a 29-story tower structure containing 177 residential units and four single-unit townhouses located at 1 Northside Piers, Brooklyn, New York and designated on the Tax Map of Kings County as Block 2340, Lots 1101 - 1281 (the "1 Northside Piers Property").

5. Plaintiff, the Board of Managers of the 2 Northside Piers Condominium (the "2 Northside Piers Board") is the governing body of the 2 Northside Piers Condominium, a condominium organized and established under RPL Article 9-B, Section 339-d, et seq., having its

and by-laws, dated February 17, 2010, recorded in the City Register on March 29, 2010 under CRFN No. 2010000105538.

6. The 2 Northside Piers Condominium is comprised of a 30-story building containing one commercial unit, 270 residential units and 12 cabana units, collectively located at 2 Northside Piers, Brooklyn, New York and designated on the Tax Map of Kings County as Block 2340, Lots 1301 - 1583 (the “2 Northside Piers Property”).

7. Plaintiff, the Board of Managers of Edge 11211 Condominium (the “Edge Board”) is the governing body of the Edge 11211 Condominium, a condominium organized and established under RPL Article 9-B, Section 339-d, et seq., having its and by-laws, dated July 22, 2010, recorded in the City Register on August 11, 2010 under CRFN No. 2010000269525.

8. The Edge 11211 Condominium is comprised of a 31-story south tower containing 360 residential units, one retail unit, one garage unit, and 152 storage units, located at 22 North 6th Street, Brooklyn, New York and designated on the Tax Map of Kings County as Block 2332, Lots 1101 – 1614, as well as a 16-story north tower, containing 205 residential units, two retail units, two garage units, and 96 storage units, located at 34 North 7th Street, Brooklyn, New York and designated on the Tax Map of Kings County as Block 2334, Lots 1101 – 1406 (collectively, the “Edge Property”).

9. The 1 Northside Piers Board, and the 2 Northside Piers Board are members of the Williamsburg Waterfront Homeowners Association, Inc. (the “WWHOA”), a duly registered New York not-for-profit corporation.

10. The Edge Board is a member of the Edge Property Owners Association, Inc. (“POA”), a duly registered New York not-for-profit corporation.

11. Defendant City of New York, by and through the NYC Department of Parks and Recreation, is a municipal corporation with an address c/o New York City Department of Parks and Recreation, The Arsenal, Central Park, 830 Fifth Avenue, New York, New York 10065, Attn: Office of the General Counsel.

FACTUAL BACKGROUND

12. The Condominiums were developed on adjacent lots situated along the East River waterfront between North 5th Street and North 7th Street in the Williamsburg neighborhood of Brooklyn.

13. Specifically, the Condominiums were constructed on “waterfront blocks” as such term is defined in Section 62-11 of the Zoning Resolution of the City of New York and subject to the regulations of Article VI, Chapter 2 of the Zoning Resolution.

14. As a condition to the development of the 1 Northside Piers Condominium and 2 Northside Piers Condominium, the condominiums’ sponsors and the predecessors-in-interest to the 1 Northside Piers Board and 2 Northside Piers Board entered into a Restrictive Declaration, dated April 19, 2006, and recorded in the City Register on April 24, 2006 under CRFN No. 2006000227373 (as amended, the “Piers Restrictive Declaration”), pursuant to which the developers agreed to construct certain publicly accessible waterfront park space, as described in Exhibit A to the declaration, including a “Shore Public Walkway” and “Pier” (as such terms are defined in the Piers Restrictive Declaration and, collectively, the “Piers Waterfront Access Areas”), and a means of public access referred to therein as the “Upland Connection.”

15. In accordance with the Piers Restrictive Declaration, the completed Piers Waterfront Access Areas were conveyed to the City in fee simple absolute in three stages and pursuant to: (a) a deed dated October 1, 2008 and recorded in the City Register on January 13,

2009 under CRFN No. 2009000010572; (b) a deed dated April 30, 2010 and recorded in the City Register on October 26, 2010 under CRFN No. 2010000358214; and (c) a deed dated as of May 15, 2015 and recorded in the City Register.

16. Likewise, as a condition to the development of the Edge 11211 Condominium, Williamsburg Edge LLC, as the sponsor and predecessor-in-interest to the Edge Board, entered into a similar Restrictive Declaration, dated March 7, 2007, and recorded in the City Register under CRFN No. 2007000127807 (as modified and amended, the “Edge Restrictive Declaration”), pursuant to which the developer also agreed to construct certain publicly accessible waterfront park space, as described in Exhibit A to the declaration, including a “Shore Public Walkway,” two “Supplemental PAAs” and one or more “Piers” (as such terms are defined in the Edge Restrictive Declaration and, collectively, the “Edge Waterfront Access Areas”), two supplemental public access areas, and one or more piers (collectively, the “Edge Waterfront Access Areas”) as well as an “Upland Connection” (as such term is defined in the Edge Restrictive Declaration) for purposes of providing public access to such areas.

17. In accordance with the Edge Restrictive Declaration, the completed Edge Waterfront Access Areas were conveyed to the City in fee simple absolute in phases pursuant to: (a) a deed dated October 1, 2008 and recorded in the City Register on January 13, 2009 under CRFN No. 2009000010572; (b) a deed dated April 30, 2010 and recorded in the City Register on October 26, 2010 under CRFN No. 2010000358214; and (c) a deed dated as of May 15, 2015 and recorded in the City Register.

18. The Piers Waterfront Access Areas and the Edge Waterfront Access Areas (collectively, the “Waterfront Access Areas”) are located on adjacent lots and form part of a single continuous public waterfront park space.

19. The parties' responsibilities relating to the maintenance of the Waterfront Access Areas are set forth in Section 62-624(e) of the Zoning Resolution, subject to the respective - and substantially similar - terms and conditions of the Piers Restrictive Declaration and Edge Restrictive Declaration (collectively, the "Restrictive Declarations").

20. Specifically, pursuant to the Restrictive Declarations, Parks established a "WAA Maintenance Account" (as such term is defined therein, respectively) to provide for the funding of ordinary maintenance and future capital repairs of the Waterfront Access Areas.

21. The Restrictive Declarations further provided that Plaintiffs and their predecessors must deposit an "Annual WAA Maintenance Payment" (as such term is defined therein, respectively) into such WAA Maintenance Account on an annual basis and in an amount determined and specified in the Restrictive Declarations.

22. Pursuant to the Restrictive Declarations, the WWHOA and POA were established for the purpose of guaranteeing the declarants' obligation to pay the Annual WAA Maintenance Payment.

23. Pursuant to Article 8 of the Piers Restrictive Declaration, upon the transfer of title to the Piers Waterfront Access Areas to the City, the City assumed sole responsibility for the maintenance of and repairs to the Piers Waterfront Access Areas in accordance with the terms and conditions of a "DPR Maintenance Agreement" in the form annexed as "Exhibit D" to the declaration.

24. Similarly, pursuant to Article 8 of the Edge Restrictive Declaration, the City assumed sole responsibility for the maintenance of and repairs to the Edge Waterfront Access Areas upon the transfer of title thereto, subject to the terms and conditions of a "WAA (DPR) Maintenance Agreement" in the form annexed to the declaration as Exhibit I.

The Maintenance Agreements

25. In accordance with the foregoing provisions of the Piers Restrictive Declaration, the City's obligations to maintain and repair the Piers Waterfront Access Areas are currently governed by the terms and conditions set forth in the Second Amended and Restated DPR Maintenance Agreement, dated as of May 15, 2015, between and among Palmer's Dock LLC, the 20 North 5th Street Board, the 1 Northside Piers Board, the 2 Northside Piers Board, and North 4th Place, LLC, on the one hand, collectively, as "Developer," and on the other hand, the City, by and through Parks (the "WWHOA Agreement").

26. The WWHOA Agreement amended and restated the parties' respective rights and obligations under the original DPR Maintenance Agreement-Phase 1, dated as of October 1, 2008, as amended and restated by the First Amended and Restated DPR Maintenance Agreement-Phase 1 and Phase 2, dated as of April 30, 2010.

27. As for the Edge Waterfront Access Areas, in accordance with the above-referenced provisions of the Edge Restrictive Declaration, the City's obligations to maintain and repair the Edge Waterfront Access Areas are currently governed by the terms and conditions set forth in the Amended and Restated WAA (DPR) Maintenance Agreement, dated as of January 29, 2020, between and among the Edge Board, the Edge POA, Edge 11211 LLC, 2 North 6th Place Property Owner LLC, Board of Managers of 34 North 6th Street Condominium, Board of Managers of 27 North 6th Street Condominium, on the one hand, collective, as "Owner," and on the other hand, the City, by and through Parks (the "POA Agreement").

28. The POA Agreement amended and restated the parties' respective rights and obligations under the WAA (DPR) Maintenance Agreement, dated as of October 9, 2013.

29. The WWHOA Agreement and POA Agreement are collectively referred to herein as the “Maintenance Agreements.”¹

30. Article 2 of the WWHOA Agreement, provides, in relevant part:

Commencing on the date hereof (the “Effective Date”), Parks shall be solely responsible for the ordinary maintenance of, and all capital repairs to, all of the Waterfront Access Areas, including the Phase 3 Waterfront Access Areas, pursuant to, and in accordance with, the provisions of this Agreement and Developer shall have no obligation or responsibility for maintenance of, or any capital repairs to, any of the Waterfront Access Areas.

31. Similarly, Article 2 of the POA Agreement provides, in relevant part:

Commencing on the date hereof, [Parks] shall be solely responsible for all maintenance of and repairs to the Waterfront Access Areas, including but not limited to the piers, bulkhead, piles and other waterfront structures. [Parks] acknowledges and agrees that Owner shall thereafter have no obligation or responsibility for maintenance, operation or repairs or improvement of the WAA . . .

32. Pursuant to Article 3, Section 3.1 of the Maintenance Agreements, “[the City, by and through Parks] will perform all [ordinary] maintenance and repairs, capital repairs and improvements, recreational, horticultural and security services for the Waterfront Access Areas [and] will operate and maintain the Waterfront Access Areas to a high standard of service and cleanliness consistent with an ‘acceptable’ rating under the ‘Parks Inspection Program’ . . .”

¹ Each of the Maintenance Agreements uses the term “Waterfront Access Areas” in reference to the Piers Waterfront Access Areas and/or Edge Waterfront Access Areas, as applicable. However, the City’s maintenance obligations under the Maintenance Agreements with respect to such portions of the Waterfront Access Areas are uniform in all material aspects, except has noted herein, including, in particular, with respect to Section 3.15. In each Maintenance Agreement, Article 3, entitled “Services,” is comprised of nearly identical Sections 3.1 through 3.17, setting forth in detail the specific services for which the City agreed to be responsible. Accordingly, for the purposes of this Complaint, references to numbered articles and/or sections of the Maintenance Agreements should be construed to refer to the Maintenance Agreements, individually and collectively, and should be deemed to refer to all relevant portions of the Waterfront Access Areas, individually and collectively.

33. In furtherance of the above obligations, the City has at all relevant times possessed sole responsibility for providing the specific services enumerated in Article 3, Sections 3.2 through 3.17 of the Maintenance Agreements, which provide, in relevant part:

3.2. Hours of Operation: The hours of operation of the Waterfront Access Areas shall be determined by the City. Notwithstanding the foregoing, Parks has advised Developer that the Waterfront Public Access Areas shall be open and accessible to the public no earlier than 6 a.m. and no later than midnight. Parks agrees that if it wishes to change these hours, it shall consult with Developer prior to implementing any change and further agrees that the hours of operation for the Waterfront Access Areas shall be consistent with the hours of operation for other waterfront parks owned by the City and managed by Parks.

3.3. Cleaning:

(a) Dirt, litter and obstructions shall be removed as needed and leaves collected and removed as needed to maintain the Waterfront Access Areas in clean, neat and good condition.

(b) All walkways, sidewalks, lighting and all other improvements and facilities installed in the Waterfront Access Areas shall be routinely cleaned and maintained so as to keep such improvements and facilities in a clean, neat and good condition.

(c) Graffiti shall be regularly painted over or removed, as appropriate to the nature of the surface within 48 hours after its appearance.

(d) Drains, sewers and catch basins shall be cleaned regularly to prevent clogging.

(e) Branches and trees damaged or felled by excessive winds, ice, vandalism, or by any other reason whatsoever, shall be promptly removed.

3.4. Snow Removal. Snow and ice shall be promptly removed from all walkways so as not to interfere with safe passage and from all other paved surfaces no more than 24 hours after each snowfall or accumulation of ice.

3.5. Landscape Maintenance. The maintenance program for the planted portions of the Waterfront Access Areas shall consist of a "Spring Start-up Period" program, a "Season Closing Period"

program, and a continuing maintenance program through the "Growing Season," all as hereinafter provided.

3.6. Spring Start-up Period: The Spring Start-up Period shall commence on March 1st and terminate not later than the end of the second week of April of each calendar year. The following work shall be undertaken and carried out annually during the Spring Start-up Period:

- (a) Remove any winter protectives from trees, shrubs and other planting materials
- (b) Remove all landscaping debris including leaves and dead branches.
- (c) Prune and trim trees that have overextended, dead or otherwise unsightly branches to maintain natural form.
- (d) Remove or destroy any weeds growing between paving blocks, pavement, cobbled and concrete areas.
- (e) Apply commercially available nitrogen rich fertilizer to trees, shrubs, planting materials and other lawn areas as appropriate.
- (f) Remove any sand deposited as a result of winter sandings.
- (g) Replace any plant material or trees that are dead, diseased and/or otherwise unhealthy with healthy specimens of substantially equal type and reasonable size.
- (h) Reseed grassed areas as needed.

3.7. Season Closing Period: The Season Closing Period shall begin on October 1st and shall terminate not later than November 1st of each calendar year. The following work shall be undertaken and carried out during the Season Closing Period:

- (a) Rake and collect leaves from the Waterfront Access Areas.
- (b) Wrap trees, shrubs and other plant materials as necessary to ensure adequate winter protection.
- (c) Apply commercially available nitrogen rich fertilizer to all lawn areas.
- (d) Reseed grassed areas as needed.

3.8. Growing Season: The Growing Season shall commence with the commencement of the Spring Start-up Period and shall terminate at the end of the Season Closing Period. The following work shall be undertaken and carried out during the Growing Season:

- (a) Inspect trees on a regular basis and spray when necessary.
- (b) Water all trees, shrubs, plantings and grass areas as necessary to maintain in a healthy condition. In extended periods of drought (i.e., little precipitation/high temperatures for more than one week) ground cover, trees, shrubs and other plantings shall be thoroughly watered, subject to any City or State regulations governing water usage.
- (c) Mow grassed areas on a bi-weekly basis. During periods of excessive growth, mowing shall occur on a weekly basis. Reseed grassed areas as needed.
- (d) Weed as needed, no less than on a bi-weekly basis.

3.9. Repairs and Replacement. Non-capital replacements and repairs of park facilities within the Waterfront Access Areas, including, without limitation, furnishings, equipment and light bulbs, shall occur as needed to maintain such facilities in good order and working condition. Parks shall exercise due diligence in commencing the repair or replacement of same as promptly as possible and completing the same within a reasonably expeditious time after commencement. Repairs shall include, but not be limited to, the following, as applicable to the facilities in the Waterfront Access Areas:

- (a) Benches, Bleachers and Other Seating: Maintenance, including replacement of any broken or missing slats and painting, as necessary.
- (b) Walls, Barriers and/or Fencing: Any broken or materially cracked walls, barriers and/or fencing shall be repaired or removed and replaced. To the extent feasible, replacement materials and designs shall match the materials and designs of existing walls, barriers and/or fencing.
- (c) Pavements: All paved surfaces shall be maintained so as to be safe and attractive. To the extent feasible, replacement materials shall match existing materials.
- (d) Signage: All park graphics shall be maintained in a first class condition and all vandalized or damaged signage shall be

promptly cleaned or replaced with new signage to match other installed signs.

(e) Painting: All items with painted surfaces shall be painted on an “as needed” basis. Surfaces shall be scraped free of rust or other extraneous matter and painted to match the installed color.

3.10. Plant Materials and Trees: Plant materials and trees that are dead, diseased and/or otherwise healthy shall be replaced with healthy specimens of substantially equal type and reasonable size. Branches from mature trees that are at eye level (six feet or less from the ground) in an active area shall be pruned.

3.11. Park Repairs: Small, non-capital repairs to benches, walls, fencing, gates, paved surfaces, walkways and other structures and features of the Waterfront Access Areas shall be performed as needed to maintain the facilities in good and working condition. Parks will report to Developer on any park repairs that cannot be completed within 48 hours and will provide a timeframe for completion for these repairs.

3.12. Capital Repairs: Parks shall be fully responsible for capital repairs. All capital repairs shall be performed in accordance with the Final Plans and Specifications unless Parks reasonably determines that such compliance is not feasible or economic, in which event Parks shall use, to the extent feasible, replacement materials which are consistent with the quality and design set forth in the Final Plans and Specifications.

3.13. Illumination: During the period in which the Waterfront Access Areas is opened, all pedestrian walkways and paths shall be adequately illuminated from one half hour before sunset to one half hour after sunrise.

3.14. Signs: Parks will post and maintain all standard park signs.

3.15. Security: Parks shall provide security using its Park Enforcement Patrol (PEP) personnel on a 24 hour, seven days a week basis and acknowledges that the Annual WAA Maintenance Payment includes funding for such security.

3.16. General Maintenance Services: Parks will perform all other services required to maintain the Waterfront Access Areas to a high standard of service and cleanliness consistent with an “acceptable” rating under the “Parks Inspection Program,” as now or hereafter conducted by Parks or under any successor program thereto. Parks staff assigned to the Waterfront Access Areas will be available 24 hours a day through Parks Central Communications.

3.17. Performance Monitoring and Inspection: The Waterfront Access Areas will be included in the Parks Inspection Program, and random inspections will be conducted by Parks inspection staff. These inspections will be based on the guidelines contained in the Park Inspection Manual. Parks will provide the results of all inspections to Developer.

34. Notwithstanding the foregoing, the City, by and through Parks, has failed to deliver the above maintenance, repair, and security services contemplated by Article 3 of the Maintenance Agreements (collectively, the “Required Services”).

35. Instead, the City and Parks have allowed the condition of the Waterfront Access Areas to steadily deteriorate at all times after receiving title and possession of the areas from Plaintiffs.

36. Furthermore, the City and Parks have failed to take action to correct these conditions at the Waterfront Access Areas despite repeated complaints from Plaintiffs throughout several years through the present.

The City Has Failed to Provide Maintenance, Repair, and Security Services As Required Under the Maintenance Agreements

37. At all relevant times after the effective date of the Maintenance Agreements, Parks has repeatedly and consistently disregarded its obligations to provide the Required Services, including, specifically but without limitation, as follows:

38. Parks has failed to sufficiently establish adequate hours of operation for the Waterfront Access Areas consistent with Section 3.2 of the Maintenance Agreements.

39. Rather, during recent months Parks unilaterally restricted the hours of operation to close at 1:00 a.m. without notifying Plaintiffs of any such change.

40. In any event, however, Parks has never enforced the operational hours and has taken no steps to prevent overnight use of the park areas at all relevant times.

41. Similarly, in violation of Section 3.2 of the Maintenance Agreements, Parks has consistently failed to address inappropriate after-hour usage of the Waterfront Access Areas, as discussed in greater detail below.

42. In violation of Section 3.3(a), Parks has not provided adequate waste bins in the Waterfront Access Area nor has Parks provided adequate waste removal services with sufficient regularity, allowing trash, litter, and obstructions to accumulate in and around the Waterfront Access Areas, including on the ground surrounding waste bins.

43. Rather than remove trash collected from bins throughout the Waterfront Access Areas as required, Parks piles bagged trash at the side of pedestrian walkways and paths.

44. Since in or around 2016, Parks has routinely compiled bagged trash collected from the area into a central large temporary and unsightly on-site dumpster, which Parks unilaterally decided to place on the pedestrian walkway near the North 5th Street entrance to the Waterfront Access Areas. Since the start of the COVID-19 pandemic, which has brought more people into the park after hours without restraint, Parks has added a second large and unsightly dumpster.

45. At all relevant times thereafter, Parks has not regularly removed bagged trash from the temporary on-site dumpster, but instead has allowed bagged trash to accumulate inside the dumpster – or on the ground next to the dumpster – for several consecutive days.

46. In response to Plaintiffs' repeated complaints about inadequate trash collection, over one year ago (i.e., prior to August 2019), Parks' representative, Mary Salig, represented to Plaintiffs that Parks ordered a permanent trash bin intended to replace the temporary on-site dumpster.

47. Contrary to such representation, Parks has not replaced the on-site dumpster with a permanent trash bin, nor has Parks taken any other steps to improve the condition.

48. Upon information and belief, Parks' failure to provide adequate trash collection and removal services has directly contributed to a significant rat infestation problem throughout the Waterfront Access Areas during the past years through the present.

49. After receiving several complaints from condominium residents about a growing number of rats spotted on the walkways and flower beds in the vicinity of the garbage bins at the end of North 5th Street, Plaintiffs notified Parks of the problem, including, without limitation, in an email to Parks' representative Mary Salig on August 10, 2018.

50. In spite of the foregoing, Parks has failed to take appropriate measures to combat the rat infestation issue, which continues through the present.

51. Parks has failed to routinely maintain all lighting, as required by Section 3.3(b).

52. Over the years, whenever the lights throughout the Waterfront Access Areas have required repair or lightbulb replacement, Parks has failed to proactively perform necessary repair and replacement work, but instead routinely allows these conditions to go unaddressed for multiple months, despite repeated requests from Plaintiffs to Parks representatives, including to Mary Salig.

53. Upon information and belief, there are currently more than 15 light fixtures throughout the Waterfront Access Areas which have been inoperative for over 18 months. This has consistently been an issue during Parks' maintenance of the areas.

54. Parks has failed to regularly clean and maintain drains, sewers and catch basins throughout the Waterfront Access Areas, as required by Section 3.3(d), causing consistent drainage blockages and pooling of water after rainfalls.

55. Parks has failed to promptly remove all ice and snow from walkways and paved surfaces, as required by Section 3.4 of the Maintenance Agreements.

56. In violation of Sections 3.5 and 3.6, Parks has consistently failed to timely commence the “Spring Start-Up Period” work contemplated by such sections on or before March 1st of each calendar year and has failed to complete such work before the end of the second week of April of each calendar year.

57. Parks’ failure to promptly commence all necessary work within the deadlines provided in the Maintenance Agreements directly impedes the use and enjoyment of the Waterfront Access Areas, in particular during the Spring in the beginning of the season.

58. Parks has failed and/or refused to replace missing or otherwise unhealthy trees throughout the Waterfront Access Areas during the “Spring Start-Up Period,” as required by Section 3.6(g) or during any other period of time, as required by Section 3.10.

59. Despite repeated complaints from Plaintiffs to Parks representatives, Parks has allowed multiple tree pits throughout the Waterfront Access Areas to remain empty for several months and in some instances several years.

60. Indeed, several tree pits throughout the Waterfront Access Areas have been empty for more than three years.

61. Parks has failed to properly reseed grassed areas as necessary throughout all seasons, as required by Sections 3.6(h), 3.7(d) and 3.8(c), and to consistently mow grass areas on a bi-weekly basis during the “Growing Season” as required by Section 3.8(c).

62. At the present, purported “grassed” areas of the Waterfront Access Areas are barren of actual grass and/or otherwise overrun with weeds with numerous dirt patches in between.

63. Parks has also routinely allowed dogs to roam the Waterfront Access Areas off-leash, which, in addition to creating a general public nuisance, creates an additional risk of dog bite injury to the countless children playing in the area.

64. Parks has failed to “exercise due diligence in commencing the repair and replacement” of non-capital replacements and repairs of park facilities within the Waterfront Access Areas and in “completing the same within a reasonably expeditious time after commencement,” as required by Sections 3.9 and 3.11.

65. Specifically, but without limitation, Parks has failed to exercise due diligence in responding to Plaintiffs’ complaints of broken or inoperative lights and missing lightbulbs throughout the Waterfront Access Areas and has failed to commence necessary repair and replacement for multiple months, in violation of Section 3.9.

66. For example, as previously alleged, there are currently at least 15 inoperative light fixtures throughout the Waterfront Access Areas in need of repair and/or lightbulb replacement, in spite of Parks’ awareness of such conditions.

67. Parks has similarly failed to adequately maintain and repair broken benches and/or replace missing benches which have been removed from the area, as required by Section 3.9(a).

68. Parks has allowed skateboarders to ruin several benches throughout the parks and thereafter failed to promptly repair or replace them.

69. Parks has failed to adequately maintain and repair rusting portions of fences, as required by Section 3.9(b), or repaint surfaces as per Section 3.9(e).

70. Despite Plaintiffs’ repeated complaints to Parks’ representatives about missing, uneven and/or damaged pavers, Parks failed to expeditiously replace or repair the pavers, as specifically required by Sections 3.9(c). Compounding the issue, several benches have toppled due to missing or uneven pavers – these benches have been removed by Parks and have not been replaced.

71. Furthermore, in several instances, Parks has failed to comply with the requirement under Section 3.9(c) that “replacement materials shall match existing materials” by filling gaps created by missing pavers with asphalt or hiding the dangerous condition with plastic barrels or traffic cones or using unsightly asphalt filler or concrete fill instead of pavers.

72. For example, on or about July 17, 2020, Parks placed orange plastic barricades over a portion of the pedestrian walkway where missing pavers have created a tripping hazard. Upon information and belief, such purportedly remedial action by Parks was only taken in response to Plaintiffs’ June 11, 2020 letter to Parks addressing its nonperformance under the Maintenance Agreements, as discussed below. Since then, Parks has not replaced the missing pavers.

73. In all cases, Parks has failed or otherwise refused to provide Plaintiffs with a timeframe for the completion of non-capital repairs that cannot be completed within 48 hours, as required by Section 3.11.

74. Parks has failed to perform capital repairs to pavers, grassed areas, and benches in accordance with the “Final Plans and Specifications” (as defined in the Maintenance Agreements), as required by Section 3.12.

75. For example, a large portion of the steel bulkhead located at North 5th Street was damaged during Superstorm Sandy in 2012. However, it took more than 6 years for Parks to remediate this damage.

76. In addition, a portion of the North 5th Street esplanade has shown significant visible signs of structural damage and settlement for years and Parks has failed to address the issue.

77. Specifically, upon information and belief, since in or around 2015, several large sections of pavers comprising the North 5th Street esplanade have been visibly sinking into the ground.

78. This condition has created a dangerous tripping hazard, looks unsightly, and in some areas regularly causes large pools of water to form, rendering that portion of the pedestrian pathway completely impassable.

79. Despite Plaintiffs' repeated requests that Parks remediate the dangerous condition, Parks has failed to do so and has allowed the condition to worsen for multiple years.

80. Upon information and belief, Parks failed to perform such repairs and the condition persists through the present.

81. Upon information and belief, the only work performed to date in furtherance of repairing the North 5th Street esplanade is a single in-water inspection of the conditions underneath the esplanade in or around December 2019.

82. Upon information and belief, Parks has not yet communicated the results of the December 2019 in-water inspection.

83. Moreover, upon information and belief, Parks has repeatedly ignored Plaintiffs' requests for a timeline for receiving the results of the inspection or the timeline for the repair of the esplanade, despite having completed the in-water inspection several months ago.

84. Parks has failed to ensure adequate illumination of pedestrian walkways and paths, as required per Section 3.13, by, as previously alleged, consistently allowed lights fixtures along pedestrian walkways and paths to remain broken or inoperative for lengthy periods of time – such as, without limitation, the 15 lighting fixtures which have been inoperative for over 18 months.

85. Parks has failed to provide adequate security for the Waterfront Access Areas as required under Section 3.15 of the WWHO Agreement and the POA Agreement.²

² Section 3.15 of the POA Agreement is the only Article 3 provision that differs from its counterpart in the WWHO Agreement. Specifically, the City's responsibility to provide security services under Section 3.15 of the WWHO Agreement is significantly broader than the security obligations imposed by the POA Agreement. Section 3.15 of the

86. Parks has consistently failed to provide adequate security services to the Waterfront Access Areas by Park Enforcement Patrol (“PEP”) personnel on a 24-hour, seven days a week basis, as required under Section 3.15 of the WWHOA Agreement.

87. Parks has similarly violated Section 3.15 of the POA Agreement, which provides, in relevant part:

[Parks] shall provide security using its Park Enforcement Patrol (PEP) personnel on a 24 hour seven days a week basis, as reasonably determined by [Parks] to provide appropriate security for the Waterfront Access Areas, and acknowledges that the Annual WAA Maintenance Payment includes funding for such security. PEP personnel will be available 24 hours per day through [Parks’] Central Communications Office.

88. Parks has failed to provide security through PEP personnel on a 24-hour, seven days a week basis, through Parks’ Central Communications Office, and thus has breached its obligations under Section 3.15 of the POA Agreement.

89. Despite Plaintiffs’ numerous complaints and meetings with Parks representatives over the past several years, security services are rarely – if ever – provided at all.

90. PEP personnel are rarely – if ever – seen in the Waterfront Access Areas.

91. Moreover, any purported security services actually provided by Parks are woefully inadequate and ineffective to enforce Parks’ rules and regulations for the Waterfront Access Areas.

92. Upon information and belief, on-site PEP personnel have frequently allowed unlawful activity and disruptive conduct to continue unabated and has otherwise failed to intervene in such circumstances.

93. For example, and without limitation, upon information and belief, motorcyclists regularly drive motorcycles or scooters on the pedestrian walkways and piers, sometimes racing

WWHOA Agreement directly mandates that the City provide PEP personnel and security services on a 24-7 basis, without qualification or any reference to the Central Communications Office.

at high speeds, and other motorists have illegally parked cars, motorcycles and other vehicles on pedestrian walkways and other areas within the park.

94. Upon information and belief, Plaintiffs have repeatedly submitted written and verbal complaints about such activities to Parks representatives, including, without limitation, to Mary Salig and Alessandro Olivieri, including without limitation in a series of emails exchanged in September 2016, following a recent shooting incident in the vicinity of the Waterfront Access Areas in August 2016.

95. In spite of the above, Parks has failed and/or refused to take steps to prevent persons from illegally driving and/or parking vehicles on the Waterfront Access Areas pedestrian walkways. This illegal conduct has gotten significantly worse since the COVID-19 pandemic began with no effort by Parks to address it.

96. Indeed, as recently as late July through September 2020, Parks has failed to take action to prevent large groups of people congregating in the Waterfront Access Areas after hours and has failed to respond to numerous complaints from Plaintiffs regarding same.

97. Upon information and belief, on a near-nightly basis during the recent summer months, including on or about July 17, 2020 through September 7, 2020, large crowds of people have congregated in the Waterfront Access Areas on the pedestrian walkways and on the piers for “block parties.”

98. Upon information and belief, such “block parties” began at approximately 9:00 p.m. and have continued on until 4:00 a.m. the following morning.

99. Upon information and belief, attendees of the “block parties” have engaged in illegal and/or disruptive conduct, including, without limitation, parking cars and other vehicles on the pedestrian walkways and piers, openly consuming alcohol within park property, playing loud

music, launching illegal fireworks from the Waterfront Access Areas, and engaging in otherwise noisy activities throughout the night.

100. Upon information and belief, during each such “block party,” Plaintiffs’ night staff and doormen have been inundated with complaints from residents about the after-hours noise emanating from the Waterfront Access Areas.

101. Upon information and belief, Plaintiffs have conveyed their residents’ complaints to Parks through the Parks Enforcement Patrol communications center, during each such “block party,” Plaintiffs’ night staff and doormen have been inundated with complaints from residents about the after-hours noise emanating from the Waterfront Access Areas.

102. Upon information and belief, PEP personnel have never taken action to prevent the “block parties” from taking place, nor have they responded to calls from Plaintiffs and the Condominiums’ residents requesting that Parks disband the parties.

103. Upon information and belief, despite numerous calls to Parks and to the New York City Police Department, responding police officers did not arrive on the scene until over two hours later.

104. Upon information and belief, during one such overnight incident over the July 17, 2020 – July 19, 2020 weekend, a group of attendees leaving a “block party” sought to access the parking garage of one of the Condominiums.

105. Upon information and belief, the Condominium’s doorman confronted these individuals and instructed them to leave the private property.

106. As such, Parks’ failure to provide adequate security for the Waterfront Access Areas places an additional burden on the Condominiums’ staff and a strain on their own security resources.

107. Until as recently as June 30, 2020, Parks failed to provide Plaintiffs with copies of the results of all inspections of the Waterfront Access Areas conducted in connection with the Parks Inspection Program (“PIP”), as required pursuant to Section 3.17, and did so only in response to a second letter sent on behalf of Plaintiffs in connection with the above breaches of the Maintenance Agreements.

108. The foregoing alleged failures by Parks on behalf of the City to provide the Required Services in accordance with the Maintenance Agreements (collectively, the “Deficiencies”) constitute breaches of material terms of the Maintenance Agreements which have directly resulted in harm to Plaintiffs.

**The City and Parks Refused to Provide the Required Services and/or
to Remediate the Deficiencies Despite Having
Actual Knowledge of Such Violations of the Maintenance Agreements**

109. Nearly immediately after the City assumed responsibility for the maintenance of the Waterfront Access Areas, the condition of such areas began to steadily deteriorate as Parks failed to provide the Required Services in the manner provided under the Maintenance Agreements, including, without limitation, as a result of the Deficiencies.

110. As demonstrated by e-mail correspondence and text messages exchanged with Parks representatives, including, without limitation, Kevin Jeffrey, Martin Maher, Mary Salig, and Alessandro Olivieri, during the period from August 2015 through the present, Plaintiffs have actively sought to engage with representatives for the City and Parks for years in an attempt to address the above Deficiencies and to seek a resolution of these issues.

111. Indeed, at all times since turning over possession of the Waterfront Access Areas to the City, Plaintiffs’ complaints to the City and Parks have consistently involved the same categories of Deficiencies, which the City and Parks have historically failed to address.

112. For example, in one email sent on behalf of Plaintiffs to Parks representative Kevin Jeffrey on August 14, 2015, the managing agent for the Edge 11211 Condominium explained as follows:

I am writing on behalf of not only the Edge Condominium but the surrounding buildings as well and wish to enlist your help in bringing back the quality and safety of the Edge Park (N5 & N6th on the waterfront in Williamsburg). The park was turned over to the Parks Department a year ago in beautiful, pristine landscaped condition, clean, free of graffiti and safe, only to have it one year later turned into a wasteland of trash, graffiti, dead grass – trees and scrubs. With serious constant criminal activity. I do believe Ed Janoff has and is trying his best to maintain and rectify the situation but frankly it has become an overwhelming eyesore and a danger where parents feel they can no longer take their children. I have attached pictures for your review.

113. Indeed, upon information and belief, since prior to 2015 and continuing through the present, several of Plaintiffs' members have communicated directly with City and Parks representatives, including, without limitation, Kevin Jeffrey, Martin Maher, Mary Salig, and Alessandro Olivieri, in person and via email, telephone and text message, for the purposes of directing Parks' attention to any recently observed unsafe conditions, broken or inoperable light fixtures and/or benches, railings or other equipment needing attention, broken or missing pavers, graffiti, poorly maintained grass areas, excessive weeds, inadequate garbage collection, illegal vehicles on pedestrian walkways, and/or other unlawful activity or disruptive conduct necessitating an immediate response by PEP and/or police.

114. Upon information and belief, such correspondence demonstrates that since in or around 2014 through the present, Plaintiffs have consistently requested updates that Parks provide updates and timelines on Parks' efforts to remediate the above described Deficiencies, including in particular but without limitation, the structural damage causing the sinking sections of pavers in the esplanade at North 5th Street.

115. Upon information and belief, during the period from 2014 through the present, Plaintiffs' members have participated in several in-person meetings and community meetings attended by representatives from the City and Parks, including Mary Salig, held for the purpose of addressing the Deficiencies, the poor condition of the Waterfront Access Areas, and the City's breaches of the Maintenance Agreements as alleged herein.

116. Upon information and belief, the topics of all such correspondence and discussions with Parks and the City during the period from 2015 through the present have consistently included the same repeated complaints from Plaintiffs regarding the Deficiencies: uneven pavement throughout the pedestrian walkways, missing pavers, missing garbage cans, inadequate garbage collection and removal, accumulation of trash and litter throughout the area, including in and around the unsightly dumpsters placed by Parks at the North 5th Street walkway, the accompanying perpetual rat infestation problem throughout the area, countless inoperative lighting fixtures, barren and/or poorly maintained grass patches, excessive weeds, excessive graffiti, the damaged North 5th Street esplanade, and an overall general lack of enforcement by PEP of the rules for illegal vehicles on pedestrian walkways, afterhours park usage, and curbing and leashing dogs on grassed areas.

117. In response to Plaintiffs' efforts to communicate with Parks regarding the Deficiencies and the growing number of complaints received by Plaintiffs from the Condominiums' residents about same, Parks and the City have consistently failed to resolve the Deficiencies or to otherwise improve the level of services provided. Similarly, the City and Parks have consistently failed to meaningfully respond to Plaintiffs' requests for updated information or timelines about Parks' efforts – if any – to correct the Deficiencies.

118. Moreover, as previously alleged, at all times prior to June 30, 2020, Parks failed to provide Plaintiffs with copies of all PIP inspection reports as provided under the Maintenance Agreements.

119. Article 9, Section 9.6(a) of the Maintenance Agreements provides, in relevant part:

(a) Nothing contained herein shall prevent [Plaintiffs] from asserting any claim or action against the City arising out of the City's performance of, or failure to perform, any of the City's obligations under this Agreement or the exercise by the City of any of its rights under this Agreement.

120. In addition, Article 9, Section 9.6(a) of the WWHOA Agreement provides, in relevant part:

(f) Developer shall report to Parks and the Department of Law in writing within ten (10) business days of the initiation by or against Developer of any legal action or proceeding in connection with or relating to this Agreement.

121. Accordingly, by letter, dated February 25, 2020, sent on Plaintiffs' behalf to the City, Plaintiffs advised the City that, as a result of its failure to provide the Required Services, including as alleged in connection with the Deficiencies, the City had breached its obligations under the Maintenance Agreements.

122. In their February 25, 2020 letter, Plaintiffs demanded that the City take immediate action to remedy its breaches of the Maintenance Agreements by any means necessary, and that the City contact Plaintiffs' counsel by March 20, 2020 to confirm the steps taken by the City to remedy the Deficiencies described in the letter.

123. Plaintiffs' February 25, 2020 letter also demanded copies of all reports and results of PIP inspections of the Waterfront Access Areas pursuant to Section 3.17 of the Maintenance Agreements.

124. The City failed to respond to Plaintiffs' February 25, 2020 letter.

125. At all times after service of the February 25, 2020 letter, the City failed to correct the Deficiencies nor did the City take any additional steps to comply with its obligations to provide the Required Services.

126. Therefore, in a second letter to the City, dated June 11, 2020, Plaintiffs reiterated their demands asserted in the February 25, 2020 letter, and advised, in relevant part:

The February 25, 2020 letter outlined the City's persistent failure to comply with several of its obligations under Article 3 of the Maintenance Agreements and requested that the City respond to [Plaintiffs'] allegations no later than March 10, 2020. However – notwithstanding any reasonable delay which may be attributable to office closures due to the COVID-19 pandemic – nearly three months have elapsed since the March 10th deadline, yet [Plaintiffs] have not been afforded the courtesy of a reply on behalf of the City. Moreover, the City has failed during that time to take any steps to address the multitude of deficiencies alleged by [Plaintiffs], and instead continues to withhold the services for which the City remains responsible under the Maintenance Agreements.

127. Plaintiffs' June 11, 2020 letter stated that if the City failed to comply with Plaintiffs' reiterated demands by June 30, 2020, Plaintiffs would commence legal action as necessary to enforce their rights under the Maintenance Agreements.

128. In a letter, dated June 30, 2020, sent on behalf of the City, Parks' general counsel provided copies of the requested PIP inspection reports and acknowledged that the Deficiencies had been previously raised with Parks by Plaintiffs, as follows:

As your client is aware, many of these issues have been raised before with Parks and we have worked to address concerns as they arose. To that end, our staff have been incredibly accessible and responsive to the residents of The Edge and Northside Piers. They regularly attend community meetings, respond to email and text messages, perform site visits and walkthroughs, and generally try to resolve community concerns as they come up.

129. In the June 30, 2020 letter, Parks' general counsel generally denied Plaintiffs' allegations and advised in relevant part:

Generally, we disagree with your claims that Parks has failed to maintain North 5th Street Pier and Park in accordance with the M&O Agreements and note that the North 5th Street Pier and Park consistently passes Parks Inspection Program (“PIP”) inspections. In fact, since 2013, the Park has only been rated as unsatisfactory on two occasions—once in Spring 2015 and once in Spring 2020.

130. The June 30, 2020 letter also contained itemized responses to Plaintiffs’ specific allegations regarding the Deficiencies and Parks’ failure to provide the Required Services mandated in each respective numbered section of Article 3 of the Maintenance Agreements.

131. In each case, however, Parks’ responses consisted of blanket restatements of the Required Services without any factual corroboration to suggest that Parks had actually complied with its obligations to provide such Required Services.

132. Rather, in response to Plaintiffs’ specific allegations, Parks’ general counsel claimed that the Required Services were “generally” provided.

133. More importantly, in spite of their general denials in the June 11, 2020 letter, Parks did not deny the truth or accuracy of the specific factual circumstances of the Deficiencies as alleged by Plaintiffs.

134. To the contrary, Parks acknowledged the existence of several deficient conditions, Parks’ responsibility to correct such conditions, and Parks failure to do so as of June 30, 2020.

135. Moreover, a review of the PIP inspection reports enclosed with the June 30, 2020 letter corroborate Plaintiffs’ allegations regarding the Deficiencies.

136. The PIP inspection reports assess the condition of the Waterfront Access Areas during 13 periodic inspections conducted on February 19, 2013, August 23, 2013, January 28, 2014, August 28, 2014, April 6, 2015, March 28, 2016, January 26, 2017, October 2, 2017, September 4, 2018, May 6, 2019, December 16, 2019, April 9, 2020, and June 5, 2020.

137. The PIP inspection reports indicate that the Waterfront Access Areas received “unacceptable” ratings for the “Overall Condition” and/or the overall “Cleanliness Rating” during several inspections, including on April 6, 2015 and as recently as April 9, 2020 (roughly one month after Plaintiffs’ February 25, 2020 letter was sent to the City in connection with the Deficiencies).

138. The PIP inspection reports also reveal that the Waterfront Access Areas consistently received “unacceptable” ratings in several individual criteria throughout the period from 2013 through 2020.

139. Specifically, the condition of the Waterfront Access Areas were rated as “unacceptable” in connection with the following specific conditions and PIP inspection reports:

- a. “Graffiti” (January 28, 2014);
- b. “Graffiti,” “Litter,” “Lawns,” “Paved Surfaces” (April 6, 2015);
- c. “Graffiti” (January 26, 2017);
- d. “Paved Surfaces” (October 2, 2017);
- e. “Paved Surfaces” (September 4, 2018);
- f. “Paved Surfaces” (May 6, 2019); and
- g. “Graffiti,” “Litter,” “Lawns,” “Paved Surfaces” (April 9, 2020).

140. Moreover, the PIP inspection reports provided consistently contained written annotations and photographs documenting the presence of various deficient and unsafe conditions throughout the Waterfront Access Areas which constitute violations of the Maintenance Agreements, regardless of whether such conditions warranted an “acceptable” rating in any overall or specific categories on PIP inspection reports.

141. Indeed, several deficient conditions - including several of the Deficiencies alleged herein - repeatedly appear in multiple PIP inspection reports over the course of several months and

years, demonstrating the City's and Parks' failure to take any action to correct those issues observed by PIP inspectors.

142. Furthermore, the criteria assessed in the PIP inspection reports do not include the adequacy of lighting for pedestrian walkways and paths or the operability of light fixtures at the Waterfront Access Areas, which Parks has consistently failed to maintain and/or repair.

143. Accordingly, in light of the City's and Parks' lengthy historical display of unwillingness and/or inability to implement the changes necessary to address the Deficiencies in response to extensive meetings and communications with Plaintiffs over the past several years (or in response to such conditions being flagged during PIP inspections), and in light of the City's and Parks' failure to provide any meaningful response in their dismissive June 30, 2020 letter, any further talks regarding these issues along the lines proposed by their general counsel would be demonstrably futile.

Plaintiffs Have Been Harmed and Will Continue to Be Harmed Due To Defendant's Past and Ongoing Breaches of the Maintenance Agreements

144. As a result of the City's and Parks' failure to comply with their obligations under the Maintenance Agreements, Plaintiffs have been directly harmed.

145. Due to the City's and Parks' failures to perform their obligations under the Maintenance Agreements as alleged herein, Plaintiffs have not received the benefit of their bargains with the City.

146. As a direct consequence of the City's and Parks' failure to provide adequate cleaning, repairs, maintenance, and security services as required under the Maintenance Agreements, the City has thus allowed the Waterfront Access Areas to fall into a state of constant disrepair, to the detriment of the public and the Condominium's residents.

147. For example, due to the City's and Parks' failures to provide the Required Services and/or correct the Deficiencies, Plaintiffs have incurred additional expenses in connection with hiring third-parties to maintain the "Upland Connection" park areas adjacent to the Waterfront Access Areas, including, without limitation, privately retaining a gardener to remove weeds that have spread into the vicinity from the Waterfront Access Areas and mulch the Upland Connection over three days at an added cost of \$2,500.00.

148. In addition, the City's and Parks' failure to provide adequate security services for the Waterfront Access Areas including, in particular, during nights after hours, has caused an ongoing undue burden on the Condominiums' staff and security personnel, who have been forced to redirect limited resources to ensure the Condominium residents' security and to prevent unauthorized entry to Condominium property from the Waterfront Access Areas.

149. Indeed, upon information and belief, large groups of people have congregated in the Waterfront Access Areas after hours on a near-nightly basis throughout the Summer months, causing a significant disturbance to the Condominiums' residents by, inter alia, gathering for noisy "block parties" at which attendees play loud music and consume alcohol in public, and by setting off fireworks from the Waterfront Access Areas.

150. Upon information and belief, during one such incident, fireworks launched from the Waterfront Access Area struck the façade of one of the Condominiums, causing damage and significant risk of fire.

151. Plaintiffs have provided the City and Parks with notice of the claims asserted herein in the manner required by the Maintenance Agreements, including, without limitation, pursuant to Article 9, Sections 9.5 and 9.6 of the WWHOA Agreement, and pursuant to Article 9, Section 9.5 of the POA Agreement, by delivering a notice of such claims to address the City c/o New York

City Department of Parks and Recreation, The Arsenal, Central Park, 830 Fifth Avenue, New York, New York 10065, Attn: Office of the General Counsel, with copies to New York City Law Department, 100 Church Street, New York, New York 10007, Attn: Chief, Economic Development, and to the New York City Department of City Planning, 22 Reade Street, New York, New York 10007, Attn: General Counsel via overnight courier on February 25, 2020 and on June 11, 2020, such dates being not less than 10 days prior to the filing of this complaint.

AS AND FOR A FIRST CAUSE OF ACTION
Breach of Contract – Monetary Damages

152. Plaintiffs repeat and reallege each and every allegation contained in paragraphs “1” through “151” with the same force and effect as though set forth at length herein.

153. At all relevant times, Plaintiffs have complied with their obligations under the Maintenance Agreements to timely pay the full amount of all Annual WAA Maintenance Payments due to Defendant by depositing such payments into the respective WAA Maintenance Accounts on or before the applicable due date.

154. Pursuant to the Maintenance Agreements, Defendant was contractually liable to perform the Required Services for the Annual WAA Maintenance Payments, as set forth in the Maintenance Agreements.

155. Defendant was also contractually obligated to correct the Deficiencies insofar as such Deficiencies constituted violations of Defendant’s obligations under the Maintenance Agreements to provide the Required Services to Plaintiffs.

156. Defendant breached Maintenance Agreements by, among other things, failing to provide all Required Services, failing to undertake any substantial work towards providing the Required Services and/or towards correcting the Deficiencies, despite receiving the Annual WAA Maintenance Payments from Plaintiffs.

157. Plaintiffs have satisfied all conditions precedent to commencing this action as required by the Maintenance Agreements, including pursuant to Article 9, Sections 9.5 and 9.6 of the WWHOA Agreement, and pursuant to Article 9, Section 9.5 of the POA Agreement, as alleged above.

158. In light of the foregoing, Plaintiffs are entitled to recover all sums of Annual WAA Maintenance Payments paid to Defendant for the years 2014 through 2020, the costs of procuring replacement services from third parties, attorneys' fees, disbursements, and costs in connection with this action.

AS AND FOR A SECOND CAUSE OF ACTION
Breach of Contract – Specific Performance

159. Plaintiffs repeat and reallege each and every allegation contained in paragraphs “1” through “158” with the same force and effect as though set forth at length herein.

160. Defendant is bound by the terms and conditions of the Maintenance Agreements.

161. The actions and inactions of the City, by and through Parks, violate several provisions of the terms and conditions set forth in the Maintenance Agreements, resulting in harm to Plaintiffs and the residents and occupants of the Condominiums in that such conduct has deprived Plaintiffs from receiving the bargained for benefits of the Maintenance Agreements, under which contracts Plaintiffs have at all time complied by virtue of their timely payment of the Annual WAA Maintenance Payments.

162. Plaintiffs have no adequate remedy at law; the repair, maintenance, and security services are available only from the City, by and through Parks, which was obligated to provide same under the Maintenance Agreements.

163. A balance of the equities tips in Plaintiffs' favor.

164. No prior request for the relief requested herein has heretofore been made in this or any other Court.

165. By reason of the foregoing, it is respectfully requested that this Court issue an order directing the City, by and through Parks, to perform its obligations set forth in the Maintenance Agreements – as detailed herein – to provide to Plaintiffs all of the repair, maintenance, and security services in the manner set forth in Article 3 of each of the Maintenance Agreements.

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WHEREFORE, Plaintiffs pray for a judgment as follows:

I: As and for the First Cause of Action:

- a. that a judgment be entered against Defendant and in favor of the 1 Northside Piers Board and 2 Northside Piers Board in an amount to be determined at trial but believed to exceed \$700,000.00;
- b. that a judgment be entered against Defendant and in favor of the Edge Board in an amount to be determined at trial but believed to exceed \$1,400,000; and
- c. that a judgment be entered against Defendant and in favor of Plaintiffs for the fees, expenses, costs, and disbursements of this action, including reasonable attorneys' fees.


II. As and for the Second Cause of Action:

- a. that an Order be entered directing the City, by and through Parks, to perform its obligations set forth in the Maintenance Agreements and to provide to Plaintiffs all of the repair, maintenance, and security services in the manner set forth in Article 3 of such Maintenance Agreements; and
- b. that a judgment be entered against Defendant and in favor of Plaintiffs for the fees, expenses, costs, and disbursements of this action, including reasonable attorneys' fees.

III: That Plaintiffs be granted such other and further relief as to the Court may seem just, proper, and equitable.

Dated: New York, New York
September 30, 2020

BRAVERMAN GREENSPUN, P.C.

By: 

Joseph Goljan, Esq.
Attorneys for Plaintiffs
110 East 42nd Street, 17th Floor
New York, New York 10017
(212) 682-2900