

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

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**JJSS JAMAICA CF LLC,**

**Index No. 709027/2020**

**Plaintiff,**

**VERIFIED ANSWER,  
AFFIRMATIVE  
DEFENSES AND  
COUNTERCLAIMS**

**- against -**

**JURY TRIAL DEMANDED**

**AABR, INC. f/k/a ASSOCIATION FOR THE  
ADVANCEMENT OF BLIND AND  
RETARDED, INC. and "XYZ CORP.",**

**Defendant.**

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**Defendant AABR, INC. f/k/a ASSOCIATION FOR THE ADVANCEMENT OF BLIND AND RETARDED, INC. ("AABR" or "Tenant"), by its attorneys, The Law Offices of Brian K. Bernstein, P.C. as and for its Answer to the Verified Complaint, dated July 1, 2020 ("Complaint") alleges as follows:**

**THE PARTIES**

- 1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "1" of the Complaint.**
- 2. Denies the allegations contained in Paragraph "2" of the Complaint, but admits that AABR is a not-for-profit corporation authorized to conduct business in the State of New York with a principal place of business located in the City and State of New York, County of Queens.**
- 3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "3" of the Complaint.**

**FACTS**

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph “4” of the Complaint, but avers that, upon information and belief, the address for the building in which the Premises are located is 89-17 161<sup>st</sup> Street, Jamaica, New York a/k/a 161-06 89<sup>th</sup> Avenue, Jamaica, New York 11432 (“Building”).

5. Denies the allegations contained in Paragraph “5” of the Complaint, and avers that AABR is the tenant in the Building pursuant to a written lease, dated April 3, 2000 (the “Initial Lease” or “Lease”), by and between The Sisters of the Order of St. Dominic, as Landlord, and the Association for the Advancement of Blind and Retarded, Inc., as Tenant, as modified and extended by the First Amendment of Lease, dated April 19, 2010, by and between the Association for the Advancement of Blind and Retarded, Inc., as Tenant, and The Sisters of the Order of St. Dominic, as Landlord, (“First Lease Amendment”) and as further amended by a Second Amendment of Lease, dated July 1, 2018 (“Second Lease Amendment”) by and between JJSS Jamaica LLC (the “Landlord”), as Landlord, and the Association for the Advancement of Blind and Retarded, Inc., as Tenant; however, AABR does not have a copy of the Second Lease Amendment signed by the Landlord.

6. Upon information and belief, denies the allegations contained in Paragraph “6” of the Complaint and respectfully refers to the Initial Lease, First Lease Amendment and Second Lease Amendment for their terms, and more specifically to the Second Lease Amendment, which provides at paragraph 6(a) that, except as otherwise provided in the Second Lease Amendment, all terms and conditions of the Lease, shall remain and continue *unmodified* and in full force and effect, which may have created a month to month tenancy between Landlord and Tenant.

7. Denies the allegations contained in Paragraph "7" of the Complaint and avers that a month to month tenancy may exist between the Landlord and AABR upon the execution of the Second Lease Amendment.

8. Denies the allegations contained in Paragraph "8" of the Complaint.

9. Denies the allegations contained in Paragraph "9" of the Complaint and respectfully refers to Paragraph "23" of the Initial Lease, which provides:

"23. Right to Inspect. Tenant agrees that Landlord, or any of its authorized personnel, shall have the right to enter upon the Premises at all reasonable hours for the purpose of examining the same and the use thereof. Landlord agrees not to unreasonably interfere with the operations of Tenant and to give reasonable prior notice to Tenant of any inspection, except in the case of emergency."

10. Admits the allegations contained in Paragraph "10" of the Complaint and respectfully refers to the Initial Lease at paragraph "23."

11. Denies the allegations contain in Paragraph "11" of the Complaint and avers that at no time did AABR breach Paragraph "22" of the Initial Lease.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "12" of the Complaint and avers that the Landlord did not send to AABR a Notice of Termination or Notice to Quit and Plaintiff did not send to AABR the purported notice dated September 28, 2018.

13. Denies the allegations contained in Paragraph "13" of the Complaint and respectfully refers to the letter, dated September 28, 2018 from JJSS Jamaica LLC to the Association for the Advancement of Blind and Retarded, Inc. was not sent in accordance with the terms of the Lease and, upon information and belief, it no longer owned the Building in which the Premises are located. AABR further avers that, upon information and belief, JJSS Jamaica, LLC

did not have standing to send the letter dated September 28, 2018, which alleged notice was not sent in accordance with the terms of the Lease.

14. Denies the allegation contained in Paragraph "14" of the Complaint and avers that AABR was not required to surrender possession of the premises to Plaintiff for several reasons including, but not limited to, that Plaintiff is not the Landlord pursuant to the Lease, as amended.

15. Admits the allegations contained in Paragraph "15" of the Complaint, but avers that it has the right to continued occupancy of the Premises.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "16" of the Complaint.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "17" of the Complaint.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "18" of the Complaint.

19. Denies the allegations contained in Paragraph "19" of the Complaint and avers that any inability to deliver possession to a new tenant is due to, among other things, the actions of the Landlord.

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph "20" of the Complaint.

21. Denies the allegations contained in Paragraph "21" of the Complaint, and upon information and belief, Plaintiff is not entitled to rental income from the purported new tenant as of the date hereof.

22. Denies the allegations contained in Paragraph "22" of the Complaint and avers that Plaintiff was demanding an "inspection" beyond the contractual scope of the inspections permitted

pursuant to Paragraph “23” of the Lease, including the Plaintiff’s demand to perform extensive work in the Premises and to provide access to individuals other than the Landlord and its authorized personnel. The Landlord abandoned this request and made a later request for an “inspection” by contractors and the entity it identified as the next tenant for the Premises. The parties agreed that the requested expanded inspection would proceed pursuant to a written agreement to address the access request for the non-landlord individuals and to address the Covid-19 protocols necessary to protect the staff of AABR.

23. Denies the allegations contained in Paragraph “23” of the Complaint, and specifically avers that the Plaintiff did not seek to conduct an inspection for purposes of the Landlord examining the Premises and the use of the Premises, but, as admitted by Plaintiff, to provide access “... for the new tenant, upon information and belief, to formulate and finalize its programming within the Premises ....” and to perform work in the Premises, which is not authorized under the Lease.

24. Denies the allegations contained in Paragraph “24” of the Complaint and refers to the discussions, negotiations and agreements between the parties regarding Plaintiff’s request for expanded access beyond the scope of Paragraph “23” of the Initial Lease.

25. Denies the allegations contained in Paragraph “25” of the Complaint and avers that AABR provided the Plaintiff and others with the requested expanded access to the Premises. As agreed by the parties, the Landlord and each member of the inspection team signed a negotiated agreement entitled, “Inspection Representations and Indemnification Agreement” regarding the health of the individuals participating in the expanded inspection and the health issues related to coronavirus and to take agreed upon precautions to avoid exposing and/or transmitting the coronavirus to AABR’s staff, which precautions included certain standard Covid-19

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