

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

BRIAN J. STRAUSS, individually, and d/b/a
1572 NORTH MILWAUKEE AVENUE
BUILDING CORPORATION, an Illinois
corporation,

Plaintiff

v.

The CITY OF CHICAGO, a municipal
corporation, and ALDERMAN PROCO JOE
MORENO,

Defendants

Case No. 17-cv-5348

The Honorable Rebecca R. Pallmeyer

Jury Trial Demanded

SECOND AMENDED COMPLAINT

Plaintiff, BRIAN J. STRAUSS, individually, and doing business as 1572 NORTH MILWAUKEE AVENUE BUILDING CORPORATION, by and through his attorney, James P. McKay, Jr., makes the following complaint against the Defendants, CITY OF CHICAGO, and ALDERMAN PROCO JOE MORENO:

JURISDICTION AND VENUE

1. This action is brought pursuant to the United States Constitution and the Civil Rights Act, specifically 42 U.S.C. Sec. 1983, 1985, 1986 and 1988, and the Illinois Constitution and the laws of the State of Illinois, to redress deprivations of the civil rights of Plaintiff by the acts or omissions of Defendants committed under color of law.

2. This Court has jurisdiction under 28 U.S.C. Sec. 1331 and 1343.

3. This Court has supplemental jurisdiction over substantially related state claims under 28 U.S.C. Sec. 1367.

4. Venue is appropriate pursuant to 28 U.S.C. Sec. 1391 as all complained of acts occurred within the Northern District of Illinois.

PARTIES

5. Plaintiff, Brian J. Strauss is a resident of Illinois (hereinafter referred to as “STRAUSS”). He is president of 1572 North Milwaukee Avenue Building Corporation which owns and operates the property located at 1572 North Milwaukee Avenue in Chicago, Illinois.

6. Defendant, City of Chicago (hereinafter referred to as “CITY”), is a municipal corporation, organized under the laws of the State of Illinois, with the power to zone and re-zone property within the limits of the city.

7. Defendant, Proco Joe Moreno (hereinafter referred to as “MORENO”), is the Alderman for the 1st Ward of the City of Chicago, who at all times relevant, was acting under color of law with the CITY.

8. The CITY of Chicago’s Committee on Zoning, Landmarks and Building Standards (hereinafter referred to as “ZONING COMMITTEE”) is a committee of the City Council of Chicago consisting of eighteen (18) Aldermen including Chairman Alderman Daniel Solis. At all times relevant, MORENO was a member of the ZONING COMMITTEE. At all times relevant, ZONING COMMITTEE was acting under the color of law on behalf of the Defendant CITY and has the power to vote on proposed zoning ordinances, defer said ordinances, hold them in committee or reject them outright.

9. Plaintiff sues Defendants CITY and MORENO in their official capacities, and sues Defendant MORENO in both his individual and official capacities.

FACTS

I. The Property and the Strauss Family.

10. The property located at 1572 North Milwaukee Avenue in Chicago, Illinois has been owned by the Strauss family for almost forty (40) years.

11. Harry Strauss started as a commercial tenant in the building in 1977 and bought the building a few years later.

12. The family ownership of the building was incorporated and Harry's son, Brian J. Strauss eventually became the President of the corporation.

13. STRAUSS has been a Chicago firefighter for the past 28 years, and his intention was to pass the building ownership to his sons, just like his father passed to him, or sell the building to support his parents, his siblings and his children.

14. The property is a four-story building, consisting of nearly 20,000 square feet and containing eleven (11) apartments. The commercial space of the building consists of nearly 10,000 square feet. It is in the heart of the Milwaukee-North-Damen corridor of Chicago, a vibrant and thriving business district. It is near public transportation, making it attractive to business tenants and prospective purchasers.

15. Before this dispute arose, the estimated market value of STRAUSS' building was approximately 10 million dollars.

16. The property has been zoned as a B3-2 building since 1974.

17. B3-2 zoning allows for commercial property on the street level, such as shopping centers, large stores and retail storefronts, often along major streets such as the Milwaukee-North-Damen corridor. Apartments are permitted above the ground floor.

18. At all relevant times, all other buildings along the Milwaukee-North-Damen corridor have B3-2 or greater zoning.

II. The Double Door's Multiple Breaches of Its Lease with Strauss.

19. Numerous problems existed during the landlord-tenant relationship between STRAUSS and Double Door Liquors, Inc. (hereinafter referred to as "DOUBLE DOOR).

Constantly high noise levels were problematic for residential tenants and neighbors. Drug and alcohol abuse by DOUBLE DOOR'S customers was an issue. Damage done to the property by DOUBLE DOOR was extensive. The lease violations ultimately caused the relationship to end, including DOUBLE DOOR'S failure to pay percentage rent and DOUBLE DOOR'S failure to properly exercise the option to renew the lease.

20. In late 2015, STRAUSS initiated a forcible entry and detainer lawsuit against its commercial tenant, Double Door Liquors, Inc. (hereinafter referred to as "DOUBLE DOOR"), in the Circuit Court of Cook County in Case Number 2015 M1-722312. The reason was simple: the tenant had violated the lease.

21. MORENO had a personal and financial relationship with the owners of DOUBLE DOOR.

22. MORENO previously told STRAUSS in 2012 that only DOUBLE DOOR would be allowed in STRAUSS' building.

III. Moreno's Revenge: The First Downzoning Proposal.

23. During the court case between STRAUSS and DOUBLE DOOR, MORENO introduced a downzoning change before the ZONING COMMITTEE on April 13, 2016, in application number A-8221. This downzoning change was proposed only for the property owned by STRAUSS.

24. This downzoning amendment was introduced by MORENO just before the trial between STRAUSS and DOUBLE DOOR began.

25. MORENO introduced this downzoning change to send a message to STRAUSS: keep DOUBLE DOOR as tenants in STRAUSS' building, or suffer the consequences.

26. DOUBLE DOOR co-owner Sean Mulroney echoed that message when he stated

in the summer of 2016 that MORENO introduced the downzoning ordinance to protect DOUBLE DOOR by making the property less appealing to future renters.

27. MORENO'S proposed downzoning ordinance called for the zoning classification for STRAUSS' property to be changed from B3-2 to B1-1.

28. This lower zoning classification of B1-1 allows fewer options for the type of commercial or retail tenants that would be allowed to occupy the building. Over 30 types of businesses would be prohibited by the CITY if STRAUSS' building was downzoned to B1-1, including general restaurants, medium and large entertainment venues, and hotels or motels. In addition, the apartments that were occupied on the upper floors would no longer be able to take new leases.

29. This change in zoning classification meant a dramatic decrease in property value due to the major restrictions in the uses and types of businesses allowed to rent space in STRAUSS' building.

30. There was no public outcry or demands for a downzoning of STRAUSS' building.

31. This downzoning ordinance proposed by MORENO, affected only STRAUSS' property.

32. This downzoning ordinance proposed by MORENO singled out STRAUSS and treated the STRAUSS family differently from others in the neighborhood.

33. There downzoning ordinance proposed by MORENO offered no benefit to the community.

34. This downzoning ordinance proposed by MORENO was arbitrary and capricious.

35. This downzoning ordinance proposed by MORENO was indicative of his discriminatory intent.

36. This downzoning ordinance proposed by MORENO was in retaliation for the lawsuit STRAUSS filed against MORENO'S friends at DOUBLE DOOR.

37. The ZONING COMMITTEE held MORENO'S downzoning proposal in committee on June 20, 2016, making it available to be called for a vote at any time in the future.

38. On or about July 19, 2016, STRAUSS met with MORENO at MORENO'S office. Present at the meeting were third party witnesses. During the meeting MORENO again told STRAUSS that only DOUBLE DOOR would be allowed in STRAUSS' building.

39. A Chicago Alderman cannot tell a Chicago building owner to whom he can rent space.

IV. The Defendants' Attempt to Avoid the Court's Judgment Against and Eviction of Double Door in a Meeting of High-Ranking Officials at City Hall.

40. On August 15, 2016, STRAUSS won his trial against DOUBLE DOOR. The Cook County Circuit Court Judge ruled the lease was violated by the tenant and ordered MORENO'S friends at DOUBLE DOOR to vacate the premises by December 31, 2016.

41. On February 6, 2017, DOUBLE DOOR was evicted from STRAUSS' building.

42. On February 8, 2017, David L. Reifman, the Commissioner of the Department of Planning and Development for CITY held a private meeting at City Hall. Present at the meeting was STRAUSS, MORENO, the owners of DOUBLE DOOR, and various staff members for MORENO and Mr. Reifman. Also present at this meeting was ZONING COMMITTEE Chairman Daniel Solis, Alderman for the 25th Ward, Zoning Administrator Patricia A. Scudiero and CITY Mayor Rahm Emanuel's Assistant Claudia E. Chavez.

43. The meeting had been arranged through the Mayor's Office with Ms. Chavez' assistance.

44. At this meeting, Mr. Reifman first advised the parties that he did not want to talk about the downzoning proposal that MORENO filed with the ZONING COMMITTEE in April. Instead, Mr. Reifman tried to broker a sale of the building between STRAUSS and DOUBLE DOOR for a purchase price far less than what the building was worth. This unusual move by Reifman was rejected by both parties. STRAUSS wasn't selling at such a low price, and DOUBLE DOOR wasn't buying. Reifman also tried to negotiate a new month to month lease between STRAUSS and DOUBLE DOOR. That effort failed too.

45. Despite Reifman's admonishment, the downzoning proposal was discussed at this meeting during which MORENO warned STRAUSS that if DOUBLE DOOR wasn't allowed back into the building, MORENO would make the zoning process a very lengthy and expensive one. MORENO also warned STRAUSS that the building at 1572 North Milwaukee Avenue could be vacant for two to five years. Further, MORENO told STRAUSS that MORENO decides what kind of tenant goes into STRAUSS' building. Finally, MORENO concluded these subtle threats with an option: all of the above problems could be avoided if his friends at DOUBLE DOOR were allowed back into the building at a rent far less than what the market would bear.

46. During the entire meeting of February 8th, ZONING COMMITTEE Chairman Solis sat and listened, as did Zoning Administrator Scudiero and Mayoral Assistant Chavez. Chairman Solis nodded quietly at times and passively expressed approval by doing nothing to stop MORENO.

V. Moreno Physically Confronts and Attempts to Intimidate Strauss.

47. The subtle threats by MORENO turned into direct threats on February 25, 2017. On the sidewalk in front of 1572 North Milwaukee Avenue, MORENO confronted STRAUSS and made clear his intentions to use his aldermanic power to harm the STRAUSS family's business of owning their building. During this confrontation MORENO said, among other things, the following:

- a. "Right, and part of life also that you're not gonna have a tenant in here for three years;"
- b. "I'm gonna have inspectors in here on a daily basis, you watch;"
- c. "You can come back to me on your knees, which is gonna happen;"
- d. "Ok, so when you're at, by the way, when the leases are up up there, since of the downzoning, you can't sign new leases for your tenants. So whenever those leases are up and those guys want to leave and you want to sign a new lease with a tenant you're not gonna be able to. I'm being up front with you. I'm being honest with you. It's gonna be an empty building with no income for you or your family."

48. These direct threats by MORENO were videotaped.

VI. Defendants Interfere with Strauss' Sale of the Property.

49. On or about May 10, 2017, STRAUSS entered into a written contract with "Buyer A" to sell the building for 9.6 million dollars. Under the terms of the contract, STRAUSS had to inform the Buyer of any pending zoning change. In addition, Buyer A met with MORENO. The contract was cancelled by this buyer on June 8, 2017, due to MORENO'S downzoning scheme looming over the property.

50. STRAUSS' commercial space, vacant since DOUBLE DOOR'S eviction in February, 2017, would garner rents of \$35,000.00 per month, conservatively speaking. STRAUSS received several written letters of intent from restaurants to rent that space at market rates, but these potential tenants refused to sign a lease unless the zoning classification remained

at B3-2. MORENO'S downzoning proposal, still looming over the property, prevented STRAUSS from leasing his space to these potential, but reluctant tenants.

VII. Moreno Ratchets Up His Vendetta Against Strauss by Proposing a Second, More Severe Downzoning.

51. In what can only be described as a blatant and arrogant abuse of power, MORENO clearly showed his intent to harm STRAUSS and retaliate against him for his successful eviction of DOUBLE DOOR by proposing a **second** downzoning ordinance. On or about June 6, 2017, *two days* before the contract was cancelled by "Buyer A", MORENO proposed to downzone STRAUSS' property from B3-2 to RS-3 under application number A-8221.

52. The zoning classification for RS-3 is intended to accommodate the development of single-unit detached houses on individual lots. RS-3 zoning is to be applied in areas where the land-use pattern is characterized predominantly by detached houses on individual lots or where such a land use pattern is desired in the future.

53. STRAUSS' building is not a "residential single-unit." It never has been, nor is it now, utilized as a single-unit. In fact, the building currently houses multiple units.

54. Further, STRAUSS' building is not detached. The building shares a common wall with the south-east neighbor, which is also a commercial/business establishment with upper-level apartments.

55. More telling of MORENO'S intent to harm STRAUSS, the land-use pattern of the area encompassing the Milwaukee-North-Damen corridor is not characterized predominantly by detached houses. The stretch of Milwaukee Avenue is solidly zoned for commercial/business for at least a half-mile on either side of STRAUSS' property. The situation is similar for Damen

Avenue, where STRAUSS' property sits in the middle of a nearly half-mile stretch of commercial/business zoning.

56. Downzoning STRAUSS' property to RS-3 is completely out of harmony with the general zoning of the community. It would be akin to putting a single-unit detached house at the corner of State and Madison in Chicago.

57. There was no public outcry or demands for a downzoning of STRAUSS' building this time either.

58. This second downzoning ordinance proposed by MORENO, affected only STRAUSS' property.

59. This second downzoning ordinance proposed by MORENO, singled out STRAUSS and treated the STRAUSS family differently from others in the neighborhood.

60. This second downzoning ordinance proposed by MORENO offered no benefit to the community.

61. This second downzoning ordinance proposed by MORENO was worse than arbitrary and capricious. It was intentionally punitive.

62. This second downzoning ordinance proposed by MORENO was indicative of his discriminatory intent.

63. On June 22, 2017, the ZONING COMMITTEE deferred MORENO'S new downzoning proposal, making it available to be called for a vote at any time in the future.

VIII. Strauss Files the Instant Suit to Attempt to Mitigate the Defendants' Continued Efforts to Strip the Property of Its Value,

64. On July 20, 2017, this action was brought before this Honorable Court when Plaintiff STRAUSS filed his original complaint to redress the deprivations of his civil rights by the acts and omissions of Defendants committed under color of law.

65. With the lawsuit fresh on their minds, ZONING COMMITTEE met on July 21, 2017, and despite the proposed downzoning being ripe for a vote, opted not to place STRAUSS' matter on the agenda.

IX. With the Proposed Downzoning Stuck in Committee and Looming Over the Property, Strauss Loses a Second Sale Opportunity.

66. On or about July 21, 2017, STRAUSS entered into another written contract to sell his building, this time to "Buyer B", for 9.1 million dollars. Like Buyer A, this buyer knew of the pending downzoning amendments. Like Buyer A, this buyer met with MORENO. The contract was cancelled by this buyer on August 7, 2017, due to MORENO'S downzoning scheme looming over the property.

X. The City Attempts to Save Face by Marginally Revising Moreno's Second Illegal Downzoning Proposal.

67. The CITY'S Department of Planning and Development and the CITY'S Department of Law could not recommend the actions of MORENO, according to Zoning Administrator Patricia A. Scudiero's testimony before the ZONING COMMITTEE on September 11, 2017.

68. As such, the CITY and ZONING COMMITTEE knew that both of MORENO'S downzoning proposals were illegal, but despite having the power to prevent the harm caused to STRAUSS, the CITY enabled MORENO in his personal grudge against STRAUSS.

69. The Defendants conspired with each other to come up with a **third** downzoning proposal that would, at least in their minds, mitigate the damage caused by MORENO. CITY officials including Zoning Administrator Scudiero, members of the Department of Law and Chairman Solis all met with MORENO and worked with him to devise this third proposal to downzone STRAUSS.

70. Consequently, in late August 2017, MORENO introduced a third downzoning ordinance against STRAUSS and his family building. This time, MORENO sought to downzone STRAUSS' property from B3-2 to B2-2 under application number A-8221.

71. The zoning classification for B2-2 is intended to spur development in commercial corridors with low demand for retail.

72. This lower zoning classification of B2-2 allows fewer options for the types of commercial or retail tenants that would be allowed to occupy the building.

73. B2-2 zoning would, like B1-1 zoning, prohibit over 30 categories of businesses and building uses.

74. This change in zoning classification still meant a dramatic decrease in the property value of STRAUSS' building.

75. There was no public outcry or demands for a downzoning of STRAUSS' building this third time either.

76. This third downzoning ordinance proposed by MORENO, affected only STRAUSS' property.

77. This third downzoning ordinance proposed by MORENO, still singled out STRAUSS and treated the STRAUSS family differently from others in the neighborhood.

78. This third downzoning ordinance proposed by MORENO offered no benefit to the community and was only done to further his personal agenda against STRAUSS. In addition, it was now an attempt to mitigate the exposure of his blatant misconduct and in retaliation for STRAUSS' federal lawsuit.

79. This third downzoning ordinance proposed by MORENO was still out of harmony with the comprehensive planning for the good of the community.

80. This third downzoning ordinance, concocted by several CITY officials, was a tacit admission of MORENO'S guilt and clear evidence of his discriminatory intent.

XI. Moreno Brags About the Improper Purpose of the Third Downzoning Proposal Before the Zoning Committee Votes.

81. On the morning of September 11, 2017, MORENO was talking to his Chief of Staff Raymond Valadez in City Council Chambers prior to the ZONING COMMITTEE meeting. The men were discussing MORENO'S most recent downzoning proposal against STRAUSS and what they should do later that day when the matter was up for a vote. MORENO'S intent to discriminate against STRAUSS was made crystal clear when he said he was going to, "Fuck with them, it makes their lawsuit weaker..."

82. The above conversation, in a public forum, was recorded.

83. On September 11, 2017, ZONING COMMITTEE, upholding the unwritten tradition of "Aldermanic Prerogative", passed MORENO'S downzoning ordinance against STRAUSS and his family.

84. "Aldermanic Prerogative" (or "Aldermanic Privilege") refers to the unwritten policy and practice of city council members deferring local matters to the alderman of the affected ward. This practice completely ignores the objections of the private citizens and enables the alderman to pass an ordinance, no matter how improperly motivated or discriminatory the ordinance may be.

85. "Aldermanic Prerogative" is a policy and practice of the CITY whereby the alderman will blindly support a zoning change proposed by one of their colleagues, knowing full well that they will get the support they need from that colleague, should they want to pass zoning legislation in their ward in the future.

86. "Aldermanic Prerogative" is a policy and practice respected and followed by the CITY Council, and specifically the ZONING COMMITTEE led by Chairman Solis.

XII. The Conspirators Achieve Their Intended Purpose as the Property's Value Plummets.

87. On September 21, 2017, "Buyer B" submitted a new written offer to purchase STRAUSS' building, this time for a price far less than what the building was worth just eleven days earlier: 6.5 million dollars.

88. On October 11, 2017, the CITY approved the ZONING COMMITTEE'S action on MORENO'S proposed ordinance, and officially downzoned STRAUSS' building from B3-2 to B2-2. Again, aldermanic prerogative trumped fundamental fairness and equal protection of the laws.

89. The actions by MORENO and CITY were not legitimate legislative actions. There was no valid reason to rezone STRAUSS' property. It was not related to public health, safety or welfare. Their actions were void of any real benefit to the community. No one from the community was asking for it. It didn't advance any legitimate state interest.

90. MORENO used his zoning power as a tool to violate STRAUSS' civil rights.

91. There is no requirement for STRAUSS to exhaust any administrative remedies in state court. While this case involves zoning issues, it is **not** a zoning case. This is a civil rights case. Civil rights cases belong in Federal Court.

92. Furthermore, it would be futile for STRAUSS to exhaust any administrative remedies, e.g., appealing to a zoning board of appeals or applying for a zoning variance. The members of the Zoning Board, who are appointed by the Mayor and approved by the City Council, hear appeals of orders from Zoning Administrator Scudiero. All of these parties are complicit in the course of conduct in the instant case, covering the time before the Reifman

meeting of February 8, 2017 to the present. There is no reason to believe that the Board would reach a different opinion.

93. In addition, it's not realistic to believe a zoning variance would be granted by the same alderman (MORENO) who downzoned STRAUSS to begin with, or gain support, contrary to "Aldermanic Prerogative."

94. The actions by MORENO and CITY were motivated solely by MORENO'S spiteful effort to get even with STRAUSS, replete with MORENO'S ill will, malice and intent to injure.

95. Instead of rejecting all of MORENO'S downzoning proposals regarding STRAUSS' property, none of which offered any benefit to the public, the CITY assisted MORENO in his vindictive and irresponsible attack against an innocent and uncooperative land owner who refused to let MORENO'S evicted friends back into the building.

96. The acts or omissions by the Defendants were in bad faith, corrupt or in furtherance of a personal rather than a public interest.

APPLICABLE LAW

97. The First Amendment of the United States Constitution guarantees that no law shall abridge the freedom of speech, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

98. The Fifth Amendment of the United States Constitution guarantees that no person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

99. The Fourteenth Amendment, Section One, of the United States Constitution guarantees that no State shall make or enforce any law which shall abridge the privileges or

immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

100. Section 1983 of Title 42 of the United States Code provides: Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

101. Section 1985(2) and (3) of Title 42 of the United States Code provides: If two or more persons in any State...for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or...in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against one or more of the conspirators.

102. Section 1986 of Title 42 of the United States Code provides: Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in Section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful

act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action.

103. Article One, Section Two of the Constitution of the State of Illinois guarantees that no person shall be deprived of life, liberty or property without due process of law nor be denied equal protection of the laws.

104. Article One, Section Four of the Constitution of the State of Illinois guarantees all persons may speak, write and publish freely.

105. Article One, Section Five of the Constitution of the State of Illinois guarantees all people have the right to assemble in a peaceable manner, to consult for the common good, to make known their opinions to their representatives and to apply for redress of grievances.

106. Article One, Section Twelve of the Constitution of the State of Illinois guarantees every person shall find a certain remedy in the laws for all injuries and wrongs which he receives to his person, privacy, property or reputation. He shall obtain justice by law, freely, completely, and promptly.

107. Article One, Section Fifteen of the Constitution of the State of Illinois guarantees that private property shall not be taken or damaged for public use without just compensation as provided by law.

COUNT I

(42 U.S.C. 1983 – Equal Protection Clause Violation Against the Defendants)

108. Each of the previous paragraphs of this Second Amended Complaint are incorporated as if fully restated here.

109. Defendants CITY and MORENO acting in their official capacities under the color of law, deprived STRAUSS of rights guaranteed to him by the Fifth Amendment and Section

One of the Fourteenth Amendment of United States Constitution, the Civil Rights Act, and Federal law including, but not limited to, his right to not be denied the equal protection of the laws.

110. The Defendants deprived STRAUSS of his right to the equal protection of the laws by proposing three separate downzoning ordinances that targeted only him and his building, eventually passing one of them, that arbitrarily singled him out, that were completely out of character with both the zoning and actual uses of the neighborhood, that were proposed in bad faith, that offered no benefit to the general community, that bore no legitimate governmental objective and were done for personal rather than a public interest in violation of the Fifth and Fourteenth Amendments of the United States Constitution and 42 U.S.C. 1983.

111. The misconduct described in this Count was objectively unreasonable, intentional, willful and wanton and was undertaken with malice and deliberate indifference to STRAUSS' constitutional rights.

112. The vindictive actions by MORENO, including the threats and political intimidation, clearly show that these actions were not legitimate legislative actions, but rather personal in nature and not in the best interest of the community. These actions discriminated against STRAUSS, and no one else. As such, MORENO and the CITY are not immune for this misconduct.

113. As a direct and proximate result of these violations, Plaintiff STRAUSS suffered economic harm, e.g. loss of sales contracts, loss of rental income, a decrease in his building's market value, as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendants CITY and MORENO as to Count I, jointly and severally, for compensatory damages in an amount in

excess of 5.1 million dollars, and damages for physical and emotional harm, and further prays for punitive damages against MORENO, plus costs and reasonable attorney's fees, as well as any other relief deemed just and proper by this Court, including injunctive relief.

COUNT II
(42 U.S.C. 1983 – Free Speech and Redress of Grievances Clause Violations Against the Defendants)

114. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

115. Defendants CITY and MORENO, acting in their official capacities under the color of law, deprived STRAUSS of his rights guaranteed to him by the First Amendment and Section One of the Fourteenth Amendment of the United States Constitution, the Civil Rights Act and Federal law, including his right to free speech and his right to petition the Government for a redress of grievances.

116. As stated above, the Defendants' actions retaliated against STRAUSS for exercising his right to file a lawsuit, first against DOUBLE DOOR in the Circuit Court of Cook County for a forcible entry and detainer, and then again for his filing of this civil rights lawsuit against the Defendants in Federal Court.

117. The first two downzoning amendments of B1-1 and RS-3, respectively, were in retaliation for filing, and then winning a lawsuit against MORENO'S friends at DOUBLE DOOR, thereby disobeying MORENO'S command that only DOUBLE DOOR would occupy STRAUSS' building. The third and final downzoning amendment of B2-2 was in retaliation for the original complaint STRAUSS filed in the instant case which exposed the misconduct of MORENO.

118. As a direct and proximate result of these violations, Plaintiff STRAUSS has suffered economic harm, e.g. loss of sales contracts, loss of rental income, a decrease in his building's market value as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendants CITY and MORENO, as to Count II, jointly and severally, for compensatory damages in an amount in excess of 5.1 million dollars, and damages for physical and emotional harm, plus punitive damages against MORENO, plus costs and reasonable attorney's fees, as well as any other relief deemed just and proper by this Court, including injunctive relief.

COUNT III
(42 U.S.C. 1983 – Due Process Clause Violation Against the Defendants)

119. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

120. Defendants CITY and MORENO, acting in their official capacities under the color of law, deprived STRAUSS of his rights guaranteed to him by the Fifth Amendment and Section One of the Fourteenth Amendment of the United States Constitution, the Civil Rights Act and Federal law, including, but not limited to, his right to not be deprived of life, liberty, or property, without due process of law.

121. As stated above, the Defendants' actions targeted only STRAUSS and were motivated by STRAUSS' refusal to allow MORENO'S legally evicted friends at DOUBLE DOOR back into his building.

122. MORENO made good on his videotaped threats to STRAUSS that if DOUBLE DOOR wasn't let back in, that STRAUSS' building would be vacant for a long time, that MORENO decides what kind of tenant goes into STRAUSS' building, that the zoning process

would be a lengthy and expensive one, and that STRAUSS and his family will be without income as a result.

123. The Defendants' actions violated STRAUSS' substantive due process rights by using zoning as a tool to violate STRAUSS' civil rights and, thereby, injure him.

124. STRAUSS was physically and emotionally injured by Defendants' actions.

125. STRAUSS' liberty was violated by Defendants' actions, in that STRAUSS wasn't free to sell his building to buyers or lease space to tenants, not with the multiple downzoning proposals looming over the property. When the Defendants finally passed the ordinance that eliminated the B3-2 zoning, they eliminated these buyers and tenants from STRAUSS' consideration, and thereby ended this freedom of choice the STRAUSS' family enjoyed for over forty years.

126. STRAUSS' full enjoyment and use of his property was taken by the Defendants' actions, when tenants and buyers were lost due to the downzoning and ultimately, the STRAUSS' building depreciated in value simply because MORENO and the CITY didn't get their way.

127. As a direct and proximate result of these violations, Plaintiff STRAUSS has suffered economic harm, e.g. loss of sales contracts, loss of rental income, a decrease in his building's market value as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendants CITY and MORENO as to Count III, jointly and severally, for compensatory damages in an amount in excess of 5.1 million dollars, and damages for physical and emotional harm, plus punitive damages against MORENO, plus costs and reasonable attorney's fees, as well as any other relief deemed just and proper by this Court, including injunctive relief.

COUNT IV
(42 U.S.C. 1983 – Taking Clause Violation Against the Defendants)

128. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

129. As described earlier, Defendants CITY and MORENO, acting in their official capacities under the color of law, deprived STRAUSS of rights guaranteed to him by the Fifth Amendment and Section One of the Fourteenth Amendment of the United States Constitution, the Civil Rights Act and Federal law including, but not limited to, his right to not have his private property taken for public use without just compensation.

130. The first two downzoning ordinances, even without legislative action, and the third downzoning ordinance, with legislative action, substantially limited the use of STRAUSS' property and caused a devastating loss of income for the STRAUSS family, just as MORENO threatened.

131. The deprivation of the economically viable uses of STRAUSS' property caused by the Defendants' actions amounts to a *de facto* taking of STRAUSS' property without just compensation in violation of the taking clause of the United States Constitution.

132. As a direct and proximate result of these violations, Plaintiff STRAUSS has suffered economic harm e.g., loss of a sales contracts, loss of rental income, a decrease in his building's market value as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendants CITY and MORENO as to Count IV, jointly and severally, for compensatory damages in an amount in excess of 5.1 million dollars and damages for physical and emotional harm, plus punitive damages against MORENO, plus costs and reasonable attorney's fees, as well as any other relief deemed just and proper by this Court, including injunctive relief.

COUNT V

(42 U.S.C. 1985(2) and (3) – Conspiracy to Deprive Civil Rights Against the Defendants)

133. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

134. Defendants CITY and MORENO, acting in their official capacities under the color of law, conspired with one another, for the purpose of depriving STRAUSS, either directly or indirectly, of his rights guaranteed to him by the First, Fifth and Fourteenth Amendments of the United States Constitution, including his right to the equal protection of the laws, his right to free speech and his right to petition the Government for a redress of his grievances, his right to not be deprived of life, liberty or property without due process of law or his right to not have his property taken for public use without just compensation, the Civil Rights Act and Federal law.

135. As described earlier, the CITY through Commissioner David Reifman, Mayoral Assistant Claudia Chavez and Zoning Administrator Patricia Scudiero, among others, knew of MORENO'S personal and vindictive motivation behind the downzoning of STRAUSS's property after the meeting on February 8, 2017 in Reifman's conference room.

136. As described earlier, the ZONING COMMITTEE through Chairman Daniel Solis, knew of MORENO'S personal and vindictive motivation behind the downzoning of STRAUSS' property after the meeting on February 8, 2017 in Reifman's conference room.

137. Defendants CITY and ZONING COMMITTEE knew or should have known, after the above meeting and the videotaped threats expressed by MORENO on February 25, 2017, which were widely reported in the media, that MORENO'S plan to downzone STRAUSS had nothing to do with any benefit to the community, but rather had everything to do with MORENO'S personal agenda to get revenge on behalf of DOUBLE DOOR.

138. Defendant CITY, through the ZONING COMMITTEE, the Department of Planning and Development, the Zoning Administrator and the Department of Law knew that once MORENO amended his downzoning ordinance to RS-3, a ridiculous and indefensible amendment considering the business district the property was in, they were on notice that MORENO was acting irresponsibly and should be stopped. They had the power and duty to prevent MORENO from harming a law-abiding citizen for personal reasons.

139. Defendant City, through its agents mentioned above, should have instructed MORENO to withdraw the downzoning proposals, or at least the ZONING COMMITTEE should have voted to reject them. Instead, they conspired with MORENO and in furtherance of their conspiracy, they worked with him to come up with a downzoning proposal, post lawsuit, that was more defensible and consistent with maintaining the status quo of “Aldermanic Prerogative”.

140. As a result of their conspiracy, the Defendants enacted a downzone of STRAUSS’s building to B2-2.

141. Defendant CITY, directly or indirectly, under the color of law, approved or ratified the unlawful, deliberate, malicious, reckless and wanton conduct of MORENO by allowing the first two downzoning proposals to linger over STRAUSS’ property for months, and then actively participated in the formation of a third downzoning ordinance that was passed into law simply to mitigate the damage already done by a co-conspirator. The Defendants failed to recognize that this third downzoning ordinance was still down, it still harmed an innocent party, and it was done without providing any benefit to the community.

142. As a direct and proximate result of these acts in furtherance of this conspiracy, Plaintiff STRAUSS has suffered economic harm, e.g., loss of a sales contracts, loss of rental

income, a decrease in his building's market value, as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendant CITY and MORENO, as to Count V, jointly and severally, for compensatory damages in an amount in excess of 5.1 million dollars and damages for physical and emotional harm, plus punitive damages against MORENO, plus costs and reasonable attorney's fees, as well as any other relief deemed just and proper by this Court, including injunctive relief.

COUNT VI
(Conspiracy to Commit 42 U.S.C. 1983 Civil Rights Violations Against the Defendants)

143. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

144. The Defendants conspired to cover up their own actions and the actions of the other city officials in the conspiracy.

145. As stated above, Reifman, Scudiero, Chavez and Chairman Solis knew what MORENO'S intentions were after the meeting in Reifman's conference room on February 8, 2017, just two days after DOUBLE DOOR was evicted. All of these CITY officials knew that MORENO wanted DOUBLE DOOR back in STRAUSS' building, or else.

146. After the confrontation on February 25, 2017, these CITY officials knew MORENO'S conduct was deplorable.

147. When the second zoning amendment of RS-3 was proposed by MORENO, the CITY, through the above officials, knew that what MORENO was proposing was indefensible.

148. Instead of rejecting MORENO's irresponsible attacks on STRAUSS by voting against MORENO, the CITY took affirmative steps in furtherance of the conspiracy, including working with MORENO to come up with a new, less damaging downzoning ordinance that

would help MORENO save face and lessen the effects of the pending lawsuit. The CITY voted to downzone STRAUSS' property to B2-2, despite there being no benefit to the community to justify it.

149. As a direct and proximate result of these acts in furtherance of this conspiracy, Plaintiff STRAUSS has suffered economic harm, e.g., loss of sales contracts, loss of rental income, a decrease in his building's market value, as well as physical and emotional damages, which will be proven up at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendants CITY and MORENO, as to Count VI, jointly and severally, for compensatory damages in an amount in excess of 5.1 million dollars and damages for physical and emotional harm, plus punitive damages against MORENO, plus costs and reasonable attorney's fees, as well as any other relief deemed just and proper by this Court, including injunctive relief.

COUNT VII
**(42 U.S.C. 1986 – Action for Neglect to Prevent Civil Rights Violations
Against Defendant City)**

150. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

151. As described earlier, Defendants CITY and MORENO conspired together to deprive STRAUSS of his rights guaranteed to him by the First, Fifth and Fourteenth Amendments of the United States Constitution, the Civil Rights Act and Federal law.

152. CITY knew MORENO'S actions were wrong and knew that the amendment to downzone STRAUSS' property to B2-2 was still discriminatory and harmful to STRAUSS.

153. CITY, through the ZONING COMMITTEE first, and then the City Council last, had the power to prevent the commission of MORENO'S misconduct from becoming law but neglected to do so.

154. Only Aldermen James Cappleman exercised his sound discretion and refused to vote in favor of MORENO'S downzoning of STRAUSS' property on September 11, 2017.

155. The rest of the ZONING COMMITTEE followed the protocol of "Aldermanic Prerogative" and passed MORENO'S spiteful amendment into law. On October 11, 2017, the CITY, through the City Council, with the exception of Alderman Patrick O'Connor, Alderman Nicholas Sposato and Alderman Anthony Napolitano, also followed the policy and practice of "Aldermanic Prerogative" and approved the amendment, making it law.

156. As a direct and proximate result of these actions or omissions, Plaintiff STRAUSS has suffered economic harm, e.g., loss of sales contracts, loss of rental income, a decrease in his building's market value, as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendant CITY as to Count VII, for compensatory damages in an amount in excess of 5.1 million dollars and damages for physical and emotional harm, plus costs and reasonable attorney's fees and any other relief deemed just and proper by this Court, including injunctive relief.

COUNT VIII
(Monell Claim Against Defendant CITY)

157. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

158. The City Council and the ZONING COMMITTEE are subsidiary divisions of the Defendant, the CITY of Chicago. The CITY maintains and exercises exclusive control over the City Council and the ZONING COMMITTEE, their policies and procedures, as well as the conduct of all of its employees, including MORENO.

159. The CITY, through the City Council and the ZONING COMMITTEE, has an established and unwritten policy and practice of “Aldermanic Prerogative” which was adopted and promulgated through the actions and inactions of the CITY’S aldermen for decades, and were thereby ratified by the CITY.

160. This policy and practice of “Aldermanic Prerogative” essentially allows an alderman to do whatever he wants when it pertains to his power to zone or re-zone property in his ward. If an alderman wants to downzone a property in his ward, the other alderman on the ZONING COMMITTEE and the City Council will approve of it, regardless of the merits, or lack thereof, of the downzoning proposed by their colleague.

161. At the time of these events complained of by Plaintiff and prior thereto, this policy and practice existed within the CITY which resulted in the failure or the refusal of the City Council and the ZONING COMMITTEE to carefully consider and weigh the issues involved, without fear of retribution by the sponsoring alderman, before properly and legitimately legislating zoning ordinances.

162. This failure or refusal to properly “legislate” with responsibility and accountability is the proximate cause of frequent injuries to citizens like Plaintiff.

163. Despite objections by land owners and other citizens, the CITY rarely, if ever, fails to pass the zoning legislation proposed by one of their colleagues, completely ignoring the motives behind the proposal and the harm the “legislation” caused the land owner and the community at large.

164. The policy and practice of “Aldermanic Prerogative” is the ultimate rubber stamp that each alderman respects and follows, just in case he needs something passed in his ward.

165. This policy and practice by the CITY, through the City Council and the ZONING COMMITTEE, signals a tolerance by the CITY of the improper use and misuse of the zoning power city aldermen have, and constitutes a deliberate indifference by the CITY of this abuse of power.

166. The policy and practice of “Aldermanic Prerogative” exists even if an isolated action by an alderman is dictated by a final policymaker, or if the authorized policymaker approves an alderman’s decision and the basis for it.

167. The acts and omissions of the Defendant CITY, through the policy and practice of “Aldermanic Prerogative” implemented by the City Council and the ZONING COMMITTEE, are a deliberate deprivation of Plaintiff STRAUSS’ Constitutional rights as guaranteed to the Plaintiff by the First, Fifth and Fourteenth Amendments of the United States Constitution.

168. As a direct and proximate result of the wrongful acts of Defendant CITY and MORENO, Plaintiff STRAUSS suffered harm to himself and his property.

WHEREFORE, Plaintiff STRAUSS respectfully requests that this Court enter judgment in his favor and against Defendants CITY and MORENO in their official capacities, awarding compensatory damages, costs, and reasonable attorney’s fees, along with punitive damages against Defendant MORENO in his individual capacity, as well as any other relief deemed just and proper by this Court.

COUNT IX
(42 U.S.C. 1983 – Civil Rights Violations Against Defendant Moreno)

169. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

170. As described earlier, Defendant MORENO, acting in his official capacity under the color of law as Alderman of the 1st Ward, and individually, intentionally deprived STRAUSS

of rights guaranteed to him by the First, Fifth and Fourteenth Amendments of the United States Constitution, the Civil Rights Act and Federal law, including but not limited to, his right to equal protection of the laws, his right to free speech and his right to petition the Government for redress of his grievances, his right to not be deprived of life, liberty and property without due process of law, and his right to not have his property taken by the public without just compensation

171. MORENO deprived STRAUSS of these rights intentionally because STRAUSS had MORENO'S friends at DOUBLE DOOR legally evicted from his building and refused to let them back in.

172. The vindictive actions by MORENO, including the threats and political intimidation behind the three downzoning proposals, clearly show that these actions were not legitimate legislative actions, but rather personal in nature and not in the best interests of the community. As such, MORENO is not immune from civil liability.

173. MORENO abused his power when he singled out STRAUSS with these downzoning amendments.

174. MORENO intended for the STRAUSS family to lose income and end up with an empty building, and the misuse of his aldermanic power to rezone was the perfect tool to accomplish that goal.

175. The political strong-arming by MORENO was exactly what the Civil Rights Act was designed to protect people from.

176. As a direct and proximate result of MORENO'S actions, Plaintiff STRAUSS suffered economic harm, e.g., loss of sales contracts, loss of rental income, a decrease in his

building's market value, as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendant MORENO as to Count IX, for compensatory damages in an amount in excess of 5.1 million dollars, and damages for physical and emotional harm, plus punitive damages in an amount that will adequately punish MORENO for his misconduct, plus costs and reasonable attorney's fees, as well as any other relief deemed just and proper by this Court, including injunctive relief.

COUNT X

(Illinois Constitution – Equal Protection Clause Violation Against All Defendants)

177. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

178. As described earlier, the Defendants' actions denied STRAUSS equal protection of the laws, in violation of Article One, Section Two of the Constitution of the State of Illinois.

179. As a direct and proximate result of these violations, Plaintiff STRAUSS suffered economic harm, e.g., loss of sales contracts, loss of rental income, a decrease in his building's market value, as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendants CITY and MORENO as to Count X, jointly and severally, for compensatory damages in excess of 5.1 million dollars and damages for physical and emotional harm, and further prays for punitive damages against MORENO, plus costs and reasonable attorney's fees and any other relief deemed just and proper by this Court, including injunctive relief.

COUNT XI

(Illinois Constitution – Free Speech, Right to Petition, and Right to Remedy and Justice Clause Violations Against the Defendants)

180. Paragraph Nos. 1 through 107 of this Second Amended Complaint are

incorporated as if fully restated here.

181. Each of the previous paragraphs of this Amended Complaint is incorporated as if fully restated here.

182. As described earlier, the Defendants' actions were in retaliation for STRAUSS exercising his right to free speech, his right to petition the courts for redress of his grievances, and his right to find a certain remedy in the laws for injuries to his person and property and to obtain justice by law, freely, completely, and promptly, in violation of Article One, Sections Four, Five and Twelve of the Constitution of the State of Illinois.

183. As a direct and proximate result of these violations, Plaintiff STRAUSS suffered economic harm, e.g., loss of sales contracts, loss of rental income, a decrease in his building's market value, as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendants CITY and MORENO as to Count XI, jointly and severally, for compensatory damages in excess of 5.1 million dollars and damages for physical and emotional harm, and further prays for punitive damages against MORENO, plus costs and reasonable attorney's fees and any other relief deemed just and proper by this Court, including injunctive relief.

COUNT XII

(Illinois Constitution – Due Process Clause Violation Against the Defendants)

184. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

185. As described earlier, the Defendants' actions deprived STRAUSS of life, liberty or property without due process of law, in violation of Article One, Section Two of the Constitution of the State of Illinois.

186. As a direct and proximate result of these violations, Plaintiff STRAUSS suffered

economic harm, e.g., loss of sales contracts, loss of rental income, a decrease in his building's market value, as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendants CITY and MORENO as to Count XII, jointly and severally, for compensatory damages in an amount in excess of 5.1 million dollars and damages for physical and emotional harm, and further prays for punitive damages against MORENO, plus costs and reasonable attorney's fees, as well as any other relief deemed just and proper by this Court, including injunctive relief.

COUNT XIII

(Illinois Constitution – Taking Clause Violation Against All Defendants)

187. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

188. The Defendants' actions amounted to inverse condemnation and consequently a *de facto* taking of STRAUSS' property without just compensation, in violation of Article One, Section Fifteen of the Constitution of the State of Illinois.

189. As a direct and proximate result of these violations, Plaintiff STRAUSS suffered economic harm, e.g., loss of sales contracts, loss of rental income, a decrease in his building's market value, as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendants CITY and MORENO as to Count XIII, jointly and severally, for compensatory damages in an amount in excess of 5.1 million dollars and damages for physical and emotional harm, and further prays for punitive damages against MORENO, plus costs and reasonable attorney's fees, as well as any other relief deemed just and proper by this Court, including injunctive relief.

COUNT XIV

(Illinois Constitutional Violations Against Defendant Moreno)

190. Paragraph Nos. 1 through 107 of this Second Amended Complaint are

incorporated as if fully restated here.

191. As described earlier, Defendant MORENO intentionally deprived STRAUSS of rights guaranteed to him by Article One, Sections Two, Four, Five, Twelve and Fifteen of the Constitution of the State of Illinois.

192. As a direct and proximate result of Defendant MORENO'S intentional, malicious and spiteful actions, Plaintiff STRAUSS suffered economic harm, e.g., loss of sales contracts, loss of rental income, a decrease in his building's market value, as well as physical and emotional damages, which will be proven at trial.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendant MORENO as to Count XIV, for compensatory damages in an amount in excess of 5.1 million dollars and damages for physical and emotional harm, and further prays for punitive damages in an amount that will adequately punish MORENO for his misconduct, plus costs and reasonable attorney's fees, as well as any other relief deemed just and proper by this Court, including injunctive relief.

COUNT XV
(Illinois State Law Claim - Tortious Interference with Contracts
Against Defendant Moreno)

193. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

194. STRAUSS entered into a valid and enforceable sales contract with "Buyer A" in May 2017, to sell the property at 1572 North Milwaukee Avenue in Chicago for the purchase price of 9.6 million dollars.

195. MORENO knew about this sales contract during meetings with Buyer A.

196. MORENO'S intentional and unjustifiable actions described above induced Buyer A to cancel the contract.

197. STRAUSS entered into another valid and enforceable sales contract with "Buyer

B” in July 2017, to sell the property at 1572 North Milwaukee Avenue in Chicago for the purchase price of 9.1 million dollars.

198. MORENO knew about this sales contract during meetings with Buyer B.

199. MORENO’S intentional and unjustifiable actions described above induced Buyer B to cancel the contract for 9.1 million dollars. Just ten days after ZONING COMMITTEE passed MORENO’S downzoning ordinance, Buyer B offered only 6.5 million dollars to purchase the same property.

200. As a direct result, STRAUSS suffered the loss of both sales contracts, other economic harm, and physical and emotional harm.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendant MORENO as to Count XV, for compensatory damages in an amount in excess of 5.1 million dollars and damages for physical and emotional harm, plus costs and reasonable attorney’s fees and any other relief deemed just and proper by this Court.

COUNT XVI

(Illinois State Law Claim - Tortious Interference with Prospective Economic Advantage Against Defendant Moreno)

201. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

202. STRAUSS had a reasonable expectation of entering into valid business relationships with prospective buyers and tenants.

203. MORENO knew of this expectation.

204. MORENO intentionally and unjustly interfered with these business relationships that induced the termination of STRAUSS expectations.

205. As a direct result, STRAUSS suffered the loss of both sales contracts, other economic harm, and physical and emotional harm.

WHEREFORE, Plaintiff STRAUSS prays for judgment against Defendant MORENO as to Count XVI, for compensatory damages in an amount in excess of 5.1 million dollars and damages for physical and emotional harm, plus costs and reasonable attorney's fees and any other relief deemed just and proper by this Court.

COUNT XVII

(Illinois State Law Claim – Intentional Infliction of Emotional Distress Against Defendant Moreno)

206. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

207. As described earlier, the conduct of MORENO was extreme and outrageous.

208. MORENO intended to cause STRAUSS severe emotional distress or knew that there was a high probability that his conduct would cause such distress.

209. Indeed, MORENO was exerting this intentional pressure to force STRAUSS to let MORENO'S friends from DOUBLE DOOR back into the building. As promised, MORENO expected STRAUSS to come crawling back to him on his knees.

210. MORENO'S conduct did cause STRAUSS to suffer severe emotional distress.

WHEREFORE, Plaintiff STRAUSS prays for judgment against MORENO as to Count XVII for compensatory damages for the pain and suffering for the physical and emotional harm caused by MORENO, plus costs and reasonable attorney's fees and other relief deemed just and proper by this Court.

COUNT XVIII

(Illinois State Law Claim – Indemnification)

211. Paragraph Nos. 1 through 107 of this Second Amended Complaint are incorporated as if fully restated here.

212. Illinois law provides that public entities are directed to pay any tort judgment for

compensatory damages for which employees are liable within the scope of their employment activities. 735 ILCS 10/9-102.

213. Defendant MORENO is or was an employee of the CITY and acted under color of law and within the scope of his employment activities in committing the misconduct described herein.

WHEREFORE, Plaintiff STRAUSS respectfully requests that this Court enter judgment in his favor and against Defendants CITY and MORENO in their official capacities, awarding compensatory damages, costs and reasonable attorney's fees, along with punitive damages against Defendant MORENO in his individual capacity, as well as any other relief deemed just and proper by this Court.

PLAINTIFF DEMANDS TRIAL BY JURY.

BRIAN STRAUSS, INDIVIDUALLY, AND D/B/A 1572 N.
MILWAUKEE AVENUE BUILDING CORPORATION

By: /s/ James P. McKay, Jr.
One of Its Attorneys

James P. McKay, Jr. (ARDC No. 6187739)
161 North Clark Street; Suite 3050
Chicago, IL 60601
T: (312) 605-8800
C: (312) 835-8052
E: jamespmckay@hotmail.com

CERTIFICATE OF SERVICE

I, Jean Casserly, a non-attorney, under penalties as provided by law, certify that I served a copy of Plaintiff's SECOND AMENDED COMPLAINT on Counsel of Record (listed below) on this 30th day of November via the court's ECF filing system.



Jean Casserly

Attorneys for City of Chicago: John L. Hendricks
Tara C. Kennedy
Andrew S. Mine
Jordan A. Rosen
CITY OF CHICAGO, DEPARTMENT OF LAW
CONSTITUTIONAL AND COMMERCIAL
LITIGATION DIVISION
30 North LaSalle Street, Suite 1230
Chicago, IL 60602
E: john.hendricks@cityofchicago.org
E: tara.kennedy@cityofchicago.org
E: andrew.mine@cityofchicago.org
E: jordan.rosen@cityofchicago.org