

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SPECTRUM SUNSHINE STATE,  
LLC,

Plaintiff,

CASE NO.

vs.

SOLIVITA COMMUNITY  
ASSOCIATION, INC.,

Defendant.

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COMPLAINT

Spectrum Sunshine State, LLC f/k/a Bright House Networks, LLC (“Spectrum”) sues Solivita Community Association, Inc. (“Association”), and alleges:

1. This Complaint arises from the Association’s disregard and ultimate breach of its written contract with Spectrum—a contract through which Spectrum has provided broadband, video, and phone services to the members of the Solivita community since 2014. Notwithstanding that Spectrum agreed to provide the members of Solivita with superior service, and greater options, at better rates for the next 10 years, the Association’s Board of Directors has chosen to intentionally breach its contract with Spectrum and enter into a contract with Blue Stream Communications on terms that burden

the residents of Solivita with fewer services at a higher price, and that require considerable and protracted construction throughout the community (this construction has already begun, and has damaged Spectrum's existing facilities, disrupting the services the members are currently receiving).

2. This is an action for damages that exceed \$75,000. The parties are diverse in citizenship, and this Court has jurisdiction pursuant to 28 U.S.C. § 1332(a).

3. Venue is appropriate in the Middle District of Florida, Tampa Division, because a substantial part of the events or omissions giving rise to the claim occurred in Polk County, Florida.

4. Spectrum is a Delaware limited liability company authorized to do business in the State of Florida, with its principal place of business in Missouri. As set forth in more detail in the attached Exhibit "A," Spectrum's sole member, Charter Communications Operating, LLC is a Delaware limited liability company with its principal place of business in Missouri, and there is a complete diversity of citizenship.

5. The Association is a Florida corporation. The Association is the Homeowners Association governing the community of Solivita, primarily located in Poinciana, Polk County, Florida. Solivita has over 5,400 residential units, and over 10,000 residents.

6. On or about April 17, 2014, Spectrum and the Association entered into a Bulk Cable Service and Right of Entry Agreement (“the Agreement”) for the provision of video, Internet, and voice service in Solivita (the “Services”). A copy of the Agreement is not attached to this Complaint because the Agreement contains a confidentiality provision.

7. Paragraph 2 of the Agreement contains an express right of first refusal in favor of Spectrum (the “ROFR”), which provides that if, during the Term of the Agreement, the Association received a competing offer to provide any Competitive Service, that the Association would immediately notify Spectrum of the offer and give Spectrum 15 days to match such offer under equivalent or better terms and conditions.

8. During the Term of the Agreement, as defined in paragraph 2, the Association received an offer from a third party called Blue Stream Fiber (“Blue Stream”) for the right to provide Competitive Service at the Property on a bulk billing basis, as those terms are also defined therein (the “Offer”).

9. Upon information and belief, Blue Stream’s Offer was received by the Association in late 2022.

10. However, the Association failed to provide to Spectrum “immediate written notice of such offer” in accordance with the terms of the ROFR.

11. Instead, the Association acted without following the Agreement’s process that would have given Spectrum the opportunity to “match such offer

under equivalent or better terms and conditions” and instead conducted a Request for Proposal (“RFP”) process that included Blue Stream as well as Spectrum.

12. Upon information and belief, the Association also provided Blue Stream with the material terms of the Spectrum Agreement during the RFP process in violation of the confidentiality provision in the Agreement.

13. Upon information and belief, in February 2023, PropRevs, LLC (“PropRevs”), (a consultant hired by the Association to evaluate service providers for the upcoming renewal term in April 2024) made a presentation to the Association, favorably comparing the Blue Stream offer to Spectrum’s existing service, without first giving Spectrum the opportunity to “match such offer under equivalent or better terms and conditions.”

14. Shortly thereafter, the Association informed its members and Blue Stream, that Blue Stream would become the new provider of bulk television, Internet, and telephone packages in Solivita for 10 years starting in April 2024.

15. The Spectrum terms that PropRevs used to compare the Blue Stream offer and present to the Association were not the same terms that Spectrum ultimately provided under paragraph 2 of the Agreement.

16. On March 10, 2023—only after having already decided to enter into an agreement with Blue Stream, and having already violated the ROFR—the Association’s President wrote to Spectrum and provided a copy of what he

purported to be an offer from Blue Stream and claimed to invite Spectrum to “match Blue Stream’s offer under equivalent or better terms and conditions.”

17. The Association’s March 10, 2023 letter purportedly providing 15 days to “match Blue Stream’s offer under equivalent or better terms and conditions” was not only tardy, but also illusory, and lacking in good faith and fair dealing.

18. On March 13, 2023—12 days prior to the expiration of Spectrum’s ROFR period—the Association signed a Grant of License to Blue Stream.

19. On March 24, 2023, Spectrum responded with its written offer on a timely basis, which beat or matched Blue Stream’s offer “under equivalent or better terms and conditions” (the “Spectrum Offer”).

20. Upon information and belief, PropRevs never presented a formal comparison of the Spectrum Offer and the Blue Stream offer to the Association, similar to what PropRevs had done in February 2023.

21. The Spectrum Offer clearly matched the Blue Stream offer under equivalent or better terms and conditions.

22. Upon information and belief, the Association’s decision was not made in the best interests of the community. Indeed, the Spectrum Offer represents a much better deal for the Association and its members.

23. Among other things, Spectrum offered fiber-based, 2 Gigabit symmetrical Internet service at activation, which was double the starting speed offered by Blue Stream.

24. Spectrum offered 24 more video channels than Blue Stream, including Spectrum's proprietary regional news network (Spectrum News 13).

25. Spectrum offered a triple play package (video, internet and phone service)—in contrast with Blue Stream's offer which requires residents to choose between adding Internet or phone service.

26. Spectrum's monthly fee (for superior services) is lower than Blue Stream's monthly fee.

27. Spectrum offered a Door Fee payable by Spectrum to the Association which is substantially higher than that offered by Blue Stream.

28. Also, under Spectrum's offer the members of the Association would not have to pay a \$75 disconnect and reconnect fee per user.

29. When Spectrum inquired regarding the status of the ROFR, PropRevs' representative Chase Gill informed Spectrum's representative that the Association's Board of Directors, based on direction from their legal counsel, had instructed Mr. Gill to cease all communications with Spectrum as it related to the ROFR.

30. In breach of the Agreement with Spectrum, the Association has entered into a 10 year contract with Blue Stream and not with Spectrum.

31. Upon information and belief, the Association's contract with Blue Stream is different than the unsigned copy the Association had provided to Spectrum, thus denying Spectrum its contractual right to match Blue Stream's revised offer "under equivalent or better terms and conditions."

32. Spectrum has repeatedly requested a copy of the executed Blue Stream contract, but the Association refuses to provide it.

33. In addition to breaching the express terms of the Agreement, the Association has breached its duty of good faith and fair dealing by failing to comply with Spectrum's right of first refusal or to reasonably determine that Spectrum matched Blue Stream's offer under equivalent or better terms and conditions.

34. Blue Stream has already begun construction of its system in the Solivita Community.

35. In the process of excavating throughout the Solivita Community, Blue Stream has negligently cut dozens of cables presently servicing Spectrum's existing customers.

36. As a result of this negligent excavation work, Blue Stream and the Association have caused service disruptions (internet, video and voice service including 911 emergency service) to dozens of Solivita residents.

37. Despite Spectrum notifying both the Association and Blue Stream of the damage and service outages, the damage continues, resulting in

additional outages for residents that is damaging Spectrum's relationship and good will with its customers, in addition to the substantial damage to the Spectrum cable system itself, for all of which the Association is liable under Paragraph 14 of the Agreement.

**COUNT I**  
**BREACH OF CONTRACT (Damages)**

38. Spectrum incorporates paragraphs 1 through 37 above.

39. The Association has breached the Agreement in various ways, including:

a. Failing to provide Spectrum immediate written notice of Blue Stream's offer;

b. Entering into a contract with Blue Steam and not with Spectrum;

c. Entering into a contract with Blue Stream on terms and conditions that are different than the unsigned copy the Association had provided to Spectrum, without providing Spectrum with the opportunity to match that revised offer "under equivalent or better terms and conditions."

d. Breaching its duty of good faith and fair dealing in denying Spectrum a sincere opportunity or otherwise reasonably determining



whether Spectrum matched Blue Stream's offer under equivalent or better terms and conditions;

e. Breaching the Agreement's confidentiality provision; and

f. Failing to indemnify Spectrum for the service interruptions and substantial damage Blue Stream is causing to Spectrum's system.

40. The Association's breaches of the Agreement have caused substantial monetary damages to Spectrum.

41. Paragraph 10 of the Agreement provides for an award of prevailing party attorney's fees and costs.

WHEREFORE, Spectrum demands judgment against the Association for monetary damages, attorney's fees, and costs.

**COUNT II**  
**(Alternative Count for Breach of Contract – Specific Performance)**

42. Spectrum incorporates paragraphs 1, 3 through 37, 39 and 41 above.

43. Both the 2014 Agreement, and the proposed 2023 Agreement provide for Easement and Access Rights that are unique to the Solivita Community.

44. Spectrum has performed its obligations under the Agreement, and is ready, willing and able to continue to perform.

45. The Association refuses to perform its obligations under the Agreement.

46. No adequate remedy at law exists.

WHEREFORE, Spectrum demands judgment against the Association for specific performance (specifically that the Spectrum Offer be accepted by the Association and the new contract be awarded to Spectrum), and for attorney's fees, and costs.

Dated: June 7, 2023

/s/ Eric J. Partlow  
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