

Moskovits Seeks to Save Bronx Project with \$14M Mystery Loan

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Toby Moskovits pitches Bronx project rescue, financed by [redacted]

Developer aims to regain control of Rider Avenue site before it hits auction block



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By

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Scrambling to save their Bronx residential development, Toby Moskovits and Michael Lichtenstein say they've secured up to \$14 million to pluck it out of bankruptcy. But the lender and restructuring team for the 286 Rider Avenue project might take some convincing.

In court filings, one attorney fighting the pair calls their financing offer — backed by a heavily-redacted letter from Moskovits' anonymous investor — a “Rube Goldberg contraption.” A lawyer for the lender, Be-Aviv, calls it “full of uncertainty and deficiencies.”

Moskovits and Lichtenstein, the principals of Heritage Equity Partners, are counting on the courts to give their rescue plan a chance.

Whoever ends up with the property will take over a 21,000-square-foot lot in a booming neighborhood, with easy access to the 4, 5 and 6 trains. A one-story warehouse remains, but Heritage has filed demolition plans and paperwork for a 105-unit apartment building.

Meanwhile, the team handling the bankruptcy restructuring has hired Rosewood Realty Group, a commercial brokerage, which has begun marketing the undeveloped property for auction.

Last week, the Heritage co-founders submitted a letter from an investor pledging up to \$14 million to pay off Be-Aviv and end the bankruptcy process. The investor claimed to have worked with Moskovits and Lichtenstein since 2017, and attached letters from Chicago-based Brickyard Bank and Canadian Imperial Bank of Commerce to demonstrate sufficient liquidity.

But the investor's name, firm, previous investments in Heritage projects and contact information were all redacted.

With no way of verifying the claims, and lacking a binding commitment, the rest of the parties implored the court to reject the plan. An attorney for Be-Aviv complained that Heritage "will not even identify their anticipated lender much less any of the terms of the exit refinancing," while a U.S. trustee overseeing the bankruptcy called the motion "at best premature."

"The lender would like nothing better than to be paid off in full," wrote Joseph Moldovan, another attorney for Be-Aviv, in his response to Heritage's offer. But "as they say in Texas, this dog won't hunt," he wrote.

For their part, the Heritage co-founders say they are willing to share unredacted copies with the other parties if they sign a confidentiality agreement. (In their filing, they say they disclosed the information to the trustee handling the bankruptcy. He declined to comment.)

The developers are concerned about revealing the information because they suspect Be-Aviv or the restructuring team might try to undermine the funding before it closes. According to Moskovits and her team, the sabotage is already underway.

Rosewood plans to close bidding on the property Jan. 7 and auction it Jan. 14, according to Greg Corbin, president of bankruptcy and restructuring at Rosewood. However, though the court recently approved a temporary funding plan that allowed for auctioning the property by Jan. 15, it hasn't signed off on the bidding procedures, which would lock in auction dates.

Moskovits' side argues that marketing the sale stifles their chances of raising money to exit bankruptcy without an auction. But one expert not involved in the case said the marketing should not be a problem.

“I can understand why the attorneys might be concerned, but I don’t know that it’s a huge deal,” said Stephen Starr, a lawyer for Starr & Starr specializing in bankruptcy and corporate restructuring.

It’s not unheard of for a debtor to claim access to financing to push off an auction sale. Heritage’s financing is apparently contingent on a final order from the judge and release of Be-Aviv’s lien and a new first-position lien over the property to the mystery savior.

Heritage and Be-Aviv have been fighting since their multi-stage funding plan for two developments fell apart. Be-Aviv declared an \$8 million land loan for the Rider Avenue project in default in March, and took control of the ownership LLC soon after, filing in July to put it into bankruptcy. Heritage is appealing the court’s authorization of the bankruptcy.

After nine months, both sides are angling for an out — one through a new investor, the other through the auction block. “Despite all the vitriol, acrimony, and mind-boggling number of motions and objections that have been filed,” wrote Moldovan, the Be-Aviv attorney, “this really is not, or perhaps more accurately, should not be a complicated case.”

That might be wishful thinking, and not the only example in the case.

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