

Toby Moskovits, Lender Vie for Control of Bronx Project

therealdeal.com/new-york/2021/07/21/lender-tries-to-seize-toby-moskovits-bronx-apartment-project/

July 21, 2021

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Lender tries to seize Toby Moskovits' Bronx apartment project

Be-Aviv claims ownership; developer says it failed to fully deliver loan



Jul 21, 2021, 12:00 PM

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Anyone who had an internet connection in 2015 remembers the dress — the striped garment that some viewers swore was blue and black while others saw white and gold. Now, the meme has met its real estate counterpart at 286 Rider Avenue.

As lender Be-Aviv sees it, Heritage Equity Partners has defaulted on its land loan at the proposed 105-unit apartment project, entitling Be-Aviv to seize ownership for itself. But Heritage sees a totally different dress.

From the developer's point of view, Be-Aviv never provided the funding it promised in the first place. And Heritage, though it did default on the first loan, knows of no formal foreclosure process underway that would give Be-Aviv any right to take over the Mott Haven project.

Maybe it's a loan gone bad, maybe it's a coup. Whatever the case, one thing's for sure: Nobody is happy about 286 Rider.

The he-said, she-said began in March, when Heritage told a Brooklyn court that Be-Aviv, run by Israeli real estate scion Ben Harlev, never put up the money it promised. The two had agreed to a three-stage, \$94 million loan, according to court filings.

The first phase of the deal, an \$8 million land loan, was meant to kick off Heritage's eight-story project. The second phase went into closing in March 2020, but Heritage alleges in its suit that it never received the funds. Consequently, it stopped repaying the initial loan, which went into default in March of this year.

Now, Be-Aviv says it's entitled to full control of the ownership LLC at 286 Rider Avenue. But not everyone's convinced.

Heritage maintains that Be-Aviv hasn't initiated a proper foreclosure process for a lender to take over a defaulted debtor's project. Meanwhile, the lender contends that its contract with Heritage allows for unilateral repossession: In a letter sent April 27, Be-Aviv demanded that Heritage register it as the ownership LLC's "absolute owner" and turn over the project's books.

On July 15, Be-Aviv filed an initial bankruptcy petition for the ownership LLC, bringing on Lee Buchwald, a veteran investment banker specializing in financial restructuring, to manage the process. It has also hired Greg Corbin of the commercial brokerage Rosewood Realty Group as the project's sale broker. Corbin declined to comment, and Buchwald didn't respond. Counsel for Be-Aviv declined to comment.

This is just the latest twist in the saga of Toby Moskovits' Heritage Equity Partners.

For now, the process, like Moskovits' apartment tower, is stalled. Heritage has not given Be-Aviv access to its books as it maintains the lender has no right to assume control. And without an inside look at the full extent of the project's liabilities and assets, the restructuring can't move forward.

Heritage's initial lawsuit against Be-Aviv is pending a default judgment, as the lender has been unresponsive to it, according to a source familiar with the case. Meanwhile, Buchwald, the firm's bankruptcy counsel, plans to subpoena Heritage's records on the tower, although the timeline and feasibility of such an order remain unknown.

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