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NYC Developers Spar Over $120M Domino Refinancing Deal

By Eric Hornbeck

Real estate developer CPC Resources Inc. sharply criticized its partner in the 11-acre, 2,200-unit Domino Sugar Refinery residential housing project on the Brooklyn waterfront during a hearing Thursday, saying fellow developer Katan Group LLC couldn't block a $120 million refinancing deal.

Mark Walfish of Katsky Korins LLP, who represents CPC Resources, told Judge Eileen Bransten that Katan couldn't stop the company from restructuring the mortgage financing from real estate finance and investment management firm Pacific Coast Capital Partners LLC.

CPC Resources, the for-profit arm of the nonprofit developer Community Preservation Corp., is the managing member of the 50-50 joint venture with Katan, Refinery Management LLC, which in turn is the sole member of the property's actual owner, Refinery LLC.

As the managing member, CPC Resources has the sole discretion to refinance the property-owning Refinery LLC entity, according to Walfish.

"They can make suggestions, but the decision is ours and ours alone," Walfish told the judge during the hearing in her downtown Manhattan courtroom.

The dispute revolves around plans to develop the waterfront property in Brooklyn's Williamsburg neighborhood surrounding the landmarked Domino Sugar Refinery into a mixed-used complex with 2,200 residential units along with commercial office space, retail space, community space and a quarter-mile waterfront promenade.

Katan, which is controlled by Brooklyn-based developer Isaac Katan, wants the judge to issue a preliminary injunction to stop the proposed refinancing, which it said will give its interest in the property away to Pacific Coast.

During the hearing Thursday, Katan attorney Christopher Milito of Morrison Cohen LLP told the judge that CPC Resources' proposed refinancing deal would "eviscerate" Katan's investment by stripping it of valuable rights it had bargained for in the developers' operating agreement for the project, cram down its equity interest and put it at the mercy of Pacific Coast.

"[CPC Resources] cannot negate its existing contractual obligations by entering into this transaction," Milito told Judge Bransten. "The proposed transaction takes huge chunks of this operating agreement and discards them."

Walfish, however, said that Katan was trying to confuse the judge by conflating Refinery Management LLC's operating agreement with Refinery LLC, which is the actual owner of the property. The operating agreement was structured to make sure the repercussions for Katan and CPC Resources would be the same for a refinancing deal — which CPC Resources, as the managing member, had the sole discretion to make, he said.

Although Katan has said there are other offers, none comes close to covering the costs of the debt, Walfish said.

However, Morrison Cohen's Y. David Scharf, who also represents Katan, said that CPC Resources had "structured the deal to wipe us out."

"They're taking away our ownership interest in the property and giving it away. They can't do that," he said.

Katan is represented by Y. David Scharf and Christopher Milito of Morrison Cohen LLP.

CPC Resources is represented by Mark Walfish of Katsky Korins LLP.

The case is Katan Group LLC v. CPC Resources Inc. et al., case number 650664/2012, in the Supreme Court of the State of New York, County of New York.

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