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Judge to determine fate of Domino Sugar Factory within month

Developer says it will voluntarily wait to complete the deal until she issues her ruling on the injunction

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By David Jones

From left: Attorney Y. David Scharf of Morrison Cohen, Attorney Mark Walfish of Katsky Korins and the Domino Sugar Factory

A state Supreme Court judge said she would rule on an injunction request at the struggling Domino Sugar Factory site in Williamsburg by May 4, after lawyers for developer CPC Resources and its main investment partner battled over a deal to sell the proposed $2 billion housing and retail project.

Katan Group, the project's main investment partner, filed suit last month seeking to block a deal to sell the project back to its lender, Pacific Coast Capital Partners. Katan, led by veteran developer Itzhak Katan, alleges that CPC has completely mismanaged the Dominos site and would see its equity diluted from 50 percent down to 8 percent if the sale was allowed to go through.

"We're focusing on the fact that they're taking our ownership interests and giving it away," Morrison Cohen attorney Y. David Scharf who represents Katan Group, told Judge Eileen Bransten at the hearing.

The company also claims it has found a "white knight" investor that would buy the site on the same terms as the proposed CPC sale back to the bank, according to lawyers.

But, attorney Mark Walfish of Katsky Korins, representing CPC, launched a blistering array of charges against Katan, saying the injunction would result in a foreclosure against the project. He also said that CPC, as managing member of the entity that controls the project, only has the obligation to consult with Katan, and has the full authority to make final decisions on the project.

"There is nothing we are doing that eviscerates their rights," he told the court.

The dispute centers on the 11-acre site of the defunct Dominos sugar factory, on the Willliamsburg waterfront between South 5th and Grand streets, which CPC and Katan acquired for $55 million in 2004. The original plan called for the team to build more than 2,200 apartments, plus commercial office space, community organization space and retail stores as well as a promenade along the East River waterfront. The proposed site was originally slated to preserve 30 percent of the units for affordable housing.

In the suit dated March 5, Katan alleges that CPC failed to get construction moving on the site, but charged it more than $1 million in costs per year in 2008 and 2009, while the budget called for about $893,000 in costs, which would coincide with construction.

The suit also claims that more than $25 million in fees were incurred from architects, lawyers, consultants, security firms and other organizations unrelated to construction. They also claim a 2010 deal to hire Cushman & Wakefield as a brokerage to get additional financing, occurred without consulting or gaining approval from Katan Group.

Katan Group claimed that in October 2011, it found an investor to buy out the project for $90 million plus the assumption of a $120 million mortgage, for a total of $210 million, but it was rejected. Then, the group said, it found another offer of $150 million, but that, too, was rejected, and CPC began to further shut it out of decisions.

Walfish told Bransten, at her urging, that CPC would voluntarily wait to complete the deal until she issues her ruling on the injunction, noting that a resolution needs to take place soon to prevent the foreclosure of the loan.

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