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Suspended Owners Seek Cut of Surf Club Redevelopment

February 4, 2016

John Moore, partner with Pathman Lewis in Miami

Samantha Joseph, Daily Business Review

A long-running dispute over the distribution of proceeds from the sale of the ritzy Surf Club has become "a test of wits" for the lawyers, according to club attorney Robert Zarco, who said former members filed a 227-page lawsuit with 30 causes of action to intimidate the other side.

"It was nothing more than a legally manipulated financial shakedown," Zarco said.

The latest round of legal sparring went to the plaintiffs, who defeated a motion by the developers and club board members to have Miami-Dade Circuit Judge John Thornton decide the case.

The case centers on Gary and Barbara Siegler, two former members of the exclusive Surfside club who demanded a jury trial on claims they were squeezed out of a lucrative $116 million redevelopment deal for the oceanfront property on Collins Avenue.

On Jan. 25, Thornton ruled in the Sieglers' favor after the club moved to strike their demand for a jury trial. Both sides asked to have a jury hear the case, but the club appeared to change direction and withdrew its jury demand.

"We think it's important that you have your rights evaluated by your peers," said the couple's attorney, John Moore, who insisted on a jury trial. The Pathman Lewis litigation partner in Miami teamed with colleagues Harold Lewis and Aaron Tandy to handle the litigation.

His clients invested $75,000 each in 2010 and 2011 for proprietary membership in the private social club launched in 1930. They bought in the midst of the housing market collapse when the once-glamorous club faced disrepair and struggled to attract new income as its members aged. By the time they bought in, the club's roster had dwindled by nearly half to 122 proprietary members.

In mid-2012 after an administrative shakeup, a new board weighed offers from seven investors pitching redevelopment deals.

Zarco claimed Gary Siegler had an undisclosed interest in one of the proposals, which he and his wife promoted while she sat on the club's board of governors. Moore disputes that claim, saying Gary Siegler developed and pitched a proposal to Turnberry Associates, a third-party investor, but had no financial stake in the deal.

What followed was a tense vetting process that reportedly ended in a physical confrontation between Gary Siegler and club president James Lucchese, and a subsequent one-year suspension of the Sieglers in July 2012.

Months later, the club closed its $116 million sale to SC Property Acquisition LLC led by Turkey's Koc Group, which planned a luxury mix-used project with high-end condominiums, restaurants and amenities.

Pritzker Prize-winning architect Richard Meier designed the new project, which broke ground in 2014 and is set for completion by July. It features an 80-room Four Seasons hotel, private club, park, restaurants and two 12-story residential towers. It will include 150 condos priced from $3 million to $35 million.

'Risky Project'

The sale allowed the Surf Club to repay its debts and left a distribution of about $800,000 per proprietary members in good standing. Other provisions gave proprietary members the right to purchase condos in the new development at discounted rates below preconstruction prices, free lifetime membership in the new club and an option to invest their distribution for an equity stake.

The bad news for the Sieglers is their suspension meant they no longer qualified for these perks.

They're suing for lost profits from being denied an equity stake in the new project, the right to purchase a discounted condo and the value of lifetime free membership in the new club.

Their complaint alleges fraud, breach of contract, tortious interference with a contractual relationship, constructive fraud, breach of fiduciary duty, conspiracy to defraud and fraudulent concealment, among other charges.

Moore said the club only suspended the Sieglers because the couple was influential and outspoken, unlike other less active members.

"The charges brought by the club were frivolous," he said. "Membership suggested a mutual apology, a handshake. They chose not to go that route."

Zarco said the club paid the couple its share of the distribution but didn't extend the other benefits "because they did not want to get into a legal battle."

He said the Sieglers, like all the other members, opted for a cash payment over the investment option as the market showed early signs of recovery.

"They believed it was a very risky project, as did all 122 proprietary members," he said. "But talk about a return on investment. They got a 1,000 percent return on their investment, but the Sieglers got greedy and wanted more."

Zarco is a proprietary member who gained that status in exchange for his representation on the sale. He said he now represents the club for a "minimal flat rate."

"The scorched-earth policy usually used by plaintiffs is not going to work here," he said. "We are not going to succumb to the pressure because there is no pressure."

Moore said his clients always wanted a stake in the project but were forced out by a disciplinary process orchestrated to squeeze them out of the deal.

"This project would be making hundreds of millions in profits, and my clients are entitled to their fair share," he said.

The Sieglers' fifth amended complaint names the developer, the Surf Club Inc. and board members as defendants. In addition to Lucchese, the list includes Mary Anne Shula, wife of Miami Dolphins coach Don Shula, and Hialeah Park Race Track owner John Brunetti.

"There are 20 defendants, two plaintiffs," Moore said. "The allegations in the complaint are as concise as they could be. Thirty separate courses of action—that takes a lot of pages."

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