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## Stuyvesant Town Lenders Plan Foreclosure of Complex as Ackman Group Halted

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Senior debt holders of Stuyvesant Town-Peter Cooper Village, Manhattan's biggest rental complex, plan to proceed with an Oct. 4 foreclosure sale after a judge blocked a rival group's move to take control of the apartments.

State Supreme Court Justice Richard Lowe in Manhattan issued a preliminary injunction stopping a foreclosure by Bill Ackman's Pershing Square Capital Management LP and Winthrop Realty Trust, which bought \$300 million of mezzanine debt on the property. The joint venture, PSW NYC LLC, may only proceed if it first pays senior creditors the \$3.67 billion that they are owed under the first mortgage, according to Lowe's order yesterday.

"The intercreditor agreement is unambiguous," Lowe wrote in the decision. "Its plain language obligates PSW to cure all senior loan defaults."

CWCapital Asset Management LLC, the special servicer for the senior mortgage, is seeking to move forward with its own foreclosure almost nine months after Stuyvesant Town owner Tishman Speyer Properties LP defaulted on its \$3 billion senior loan and \$1.4 billion of mezzanine, or junior, debt. The Pershing-Winthrop venture plans to appeal Lowe's decision, potentially pushing back the CW auction.

"We vigorously disagree with the court's ruling," Michael Ashner, chairman and chief executive officer of Boston-based Winthrop, said in an interview. "We believe his interpretation of the contract was erroneous."

### **'Race to Foreclose'**

The Pershing-Winthrop group and CWCapital had been in a "race to foreclose," Edward Weisfelner, a lawyer for the joint venture, said in court on Sept 2. Pershing and Winthrop sought to take control of the 80-acre property by foreclosing on the legal entity that owns it. Had they done so, they could have placed the entity in bankruptcy, a move that could harm senior lender's ability to get paid the full \$3.67 billion they are owed, CWCapital's lawyers argued in court.

"They can't foreclose, they can't sell to anybody and they can't transfer," Greg Cross, a lawyer for CWCapital, said after the judge's decision. "They have to pay us in full."

CWCapital will now proceed with its scheduled Oct. 4 foreclosure on the property, Cross said.

The foreclosure could wipe out Pershing and Winthrop's investment, the joint venture said in a statement yesterday. They paid \$45 million for the debt.

### **Possibility for Settlement**

The two sides may ultimately reach a settlement that would result in Pershing and Winthrop taking control after making a payment to CWCapital, said Joshua Stein, principal of Joshua Stein PLLC, an independent commercial real estate law practice that isn't involved in the case.

"The real thing that's next is negotiations between CWCapital and Pershing," said Stein, author of "Stein on New York Commercial Mortgage Transactions." "CWCapital just got a lot more leverage in those negotiations. If Pershing is willing to pay a good price, that's the end of the discussion."

Stuyvesant Town and Peter Cooper Village, located between 14th and 23rd Streets alongside the East River, likely will attract several bidders if CW moves forward with an auction. Billionaire Wilbur Ross is among investors who have expressed interest in the property.

### **Guterman Plans**

Gerald Guterman, whose firm bought more than 12,000 New York-area rental apartments and turned them into condos and co-ops in the 1970s and 1980s, wants to lead a co-op conversion at the complex. Guterman said in an interview this week that he has presented his plan to CWCapital and to representatives of the more than 25,000 tenants who live in the apartments.

His company, Condo Recovery LLC, plans to make an offer to CW in two or three days, Guterman said in an interview today on Bloomberg Television's "In the Loop with Betty Liu." He estimated the complex would be worth \$3 billion if a conversion occurs. It's valued at about \$2 billion as rentals, he said.

Guterman's plan could allow tenants to buy their apartments for a price as low as \$290 per square foot, he said in the interview earlier this week. The average price per square foot for apartments in the neighborhood is \$730, he said.

"That's the kind of thing that gives people a reason to buy," he said.

The plan by Pershing and Winthrop also calls for a conversion to co-ops. Their venture sent a letter to residents on Sept. 12 pledging to give them "full veto rights" on all major decisions, as well as a say in the pricing of co-op units.

### **Tenants' Role**

New York City Councilman Daniel Garodnick, a resident of Peter Cooper Village and a leader in tenants' effort to find a partner for an eventual co-op conversion, said the tenants aren't taking sides in the dispute between CW and the Pershing- Winthrop venture.

“Legal challenges will come, and they will go,” Garodnick said in a statement yesterday. “What endures are the tenants themselves.”

Tishman Speyer and BlackRock Inc. bought Stuyvesant Town- Peter Cooper Village for \$5.4 billion in 2006, a record New York commercial real estate deal at the time. They stopped payments after the development’s value sank and tenants successfully fought a plan to increase rent-controlled rates.

“The tenants will have a direct role in determining the future of this community,” Garodnick said. “We will vigorously defend our interests in whatever process unfolds, whether it is a foreclosure, bankruptcy or negotiated solution.”

The case is Bank of America NA v. PSW NYC LLC, 10-651293, New York State Supreme Court, New York County (Manhattan).