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Davis loses control of Grant Park condo tower

By Alby Gallun, Feb. 10, 2010

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(Crain's) — Chicago developer Allison Davis has lost control of a slow-selling $117-million condominium tower overlooking Grant Park, rankling an investor in the project who has sued the lender that took it over.

A unit of Boston-based Fidelity Investments reneged on a deal to modify an $18.5-million mezzanine loan to the Columbian, a 46-story building at 1160 S. Michigan Ave., according to the lawsuit, filed last week in Cook County Circuit Court.

The case provides a behind-the-scenes peek at the loan workout process, an experience all too familiar to many downtown developers that haven't sold enough condos to pay off their lenders.

It also illustrates the big financial risks facing Mr. Davis, who could be forced to come up with $38 million of his own money to pay off Fidelity, according to the complaint.

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Mr. Davis, principal of Chicago-based Davis Group LLC, did not return phone calls for comment. He launched the Columbian in 2005 with a $92-million loan from Corus Bank, an $18.5-million mezzanine loan from a Fidelity real estate fund and $6 million in equity from Neighborhood Rejuvenation Partners, an investment vehicle controlled by Mr. Davis, the suit says.

The developer paid off the Corus loan last May but hadn't sold enough units to pay off the mezzanine loan with accrued interest. So Fidelity agreed to accept just the principal payment of $18.5 million without the interest, according to the complaint, which was filed by a limited partner in the project, Chicago attorney Edward T. Joyce.

But by November, when Mr. Davis had lined up the financing to pay off Fidelity, the lender backed out of the agreement and demanded that the developer fork over $29 million instead, the suit says. Fidelity sent a default notice to the developer in January and took over the project Feb. 3.

Fidelity "breached its duty of good faith and fair dealing," the complaint says. It also charges that Fidelity sabotaged sales efforts at the project, but doesn't specify how.

A Fidelity spokesman says, "We strongly disagree with the complaint and we intend to defend it vigorously."

Mr. Joyce and his lawyer did not return phone calls.

Though the Columbian opened nearly three years ago, buyers have closed on just 156, or 71%, of the building's 220 condos, according to Appraisal Research Counselors, a Chicago-based consulting firm. Available units range from $279,900 to $2.3 million, says Victoria Singleton, a Columbian sales representative.

With the downtown condo market stuck in a four-year slump, many lenders have agreed to modify or extend construction loans, avoiding the costly and complicated foreclosure process and hoping for the best. But more lenders will move against developers if sales don't pick up soon.

"You can only be patient for so long," says Appraisal Research Vice-President Gail Lissner.

Mr. Davis is in an especially sticky situation. He has an obligation to represent the interests of his investors, but Fidelity has threatened to pursue him for any unpaid debt if he fights its takeover of the Columbian, the complaint says. Fidelity's assertion that he could be held personally liable for $38 million "has placed Davis in a hopeless conflict of interest," it says.

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Tom S. wrote:

Turning over the keys to a senior creditor to get off of a personal guarantee on a failed condo project sounds like a smart move. I am sure the investor had ample opportunity to get out their checkbook to solve the problem but chose not to.

2/10/2010 9:13:50 AM

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James M. wrote:

Sounds like Fidelity can see the light at the end of the tunnel on on this deal and wants to recoup some losses it may have sustained on other projects.

2/10/2010 3:39:36 PM

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Ajay D. wrote:

I smell an auction of the remaining 29% of unsold units. The South Loop is doomed.

2/10/2010 4:53:43 PM

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