Investors sue to review financial books of White Plains developer

westfaironline.com/97715/investors-sue-to-review-financial-books-of-white-plains-developer/

January 3, 2018

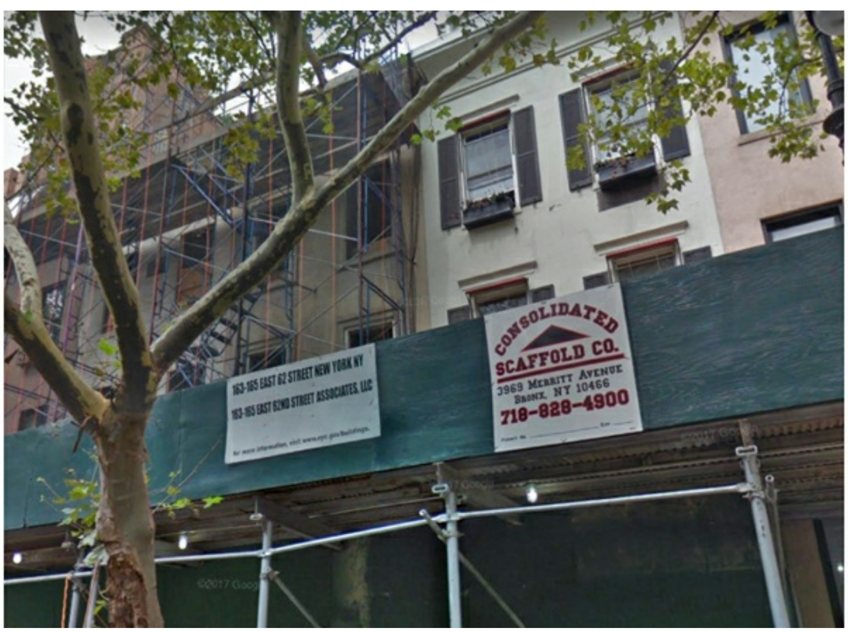
Several investors have sued companies run by White Plains developer Michael Paul D’Alessio for allegedly stopping payments on three midtown Manhattan condo projects.

The investors are demanding that they be allowed to inspect the books and records for the projects so that they can trace the use of funds and understand why debt on the properties has increased.

They fear “that there has been a gross misuse of funds,” according to one of three lawsuits filed on Dec. 22 in Westchester Supreme Court, and unless they can review the books now, “it might be too late to seek appropriate relief.”

D’Alessio is the head of Michael Paul Enterprises LLC in White Plains. The firm has a 25-year record of building and managing commercial and residential projects, according to its website.

“My only response,” D’Alessio told the Business Journal, “is that all of the allegations are false and have no basis. I look forward to my day in court to open the books and records.”



163-165 E. 62nd St.

D’Alessio set up several limited liability companies in 2015 and 2016, named after project locations: 145-147 E. 62nd St., 163-165 E. 62nd St. and 184 E. 64th St.

Project costs, according to the complaints, were supposed to total $90.2 million.

The investors contributed $3.66 million. Rella Fogliano, who as head of the MacQuesten Cost in Pelham is also a developer, put in $1 million.

Other investors include Joseph Breda, at the MacQuesten address, $300,000; Attis Properties, Harrison, whose CEO is Gary Gross, $300,000, Marilyn Shendell, New Rochelle, $200,000, and East 64th Street Realty Partners, $1.86 million. No address or names were disclosed for Realty Partners.

The lawsuits make essentially the same claims. Investors were promised returns of 10 to 16 percent per year and quick repayment of principal. At some point, payments stopped and D'Alessio cited "liquidity" issues.

All three lawsuits were filed by Manhattan attorneys Tab K. Rosenfeld and Steven M. Kaplan.

The $19.9 million project at 145-147 E. 62nd St., for example, consisted of buying a townhouse, gutting it and building six stories with eight condominiums.

Fogliano, Shendell and Attis contributed $700,000.

The private placement memorandum promised a 10 percent annual return on equity and return of capital contributions within 24 months, the complaint states.

But the memo did not disclose that the property was occupied by tenants who are protected by rent control regulations, or that demolition and renovations could not begin until the tenants moved out.

Project costs were supposed to be fixed, the complaint states, and D'Alessio guaranteed he would cover cost overruns. But instead, his company allegedly secured additional funding for the project.

In November, investors were told for the first time that the property was rent controlled. It was suffering from a liquidity problem, the complaint states, had a $43,000 negative cash flow and would continue to run deficits.

The $46.8 million project at 163-165 E. 62nd included the purchase of three townhouses, to be demolished and replaced with a 7-story building with 10 condominiums. Attis, Breda, Fogliano and Shendell invested $1.1 million.

They were promised a 16 percent annual return and repayment of the principal in 24 months.

They were told in November that the project was only 20 percent done but liquidity problems caused by delays and litigation had resulted in cost overruns.

The $23.4 million, 6-story, 5-condominium project at 184 E. 64th has been completed, D'Alessio said.

East 64th Street Realty Partners invested $1.86 million. It claims that the debt on the project nearly doubled to $22 million, without explanation.

The developer, the complaint states, was supposed to invest nearly $23.5 million but failed to do so.

The complaints contend that project funds were either commingled with funds for other D’Alessio companies or were used to make preferential equity payments.