

Yair Levy in for a tough fight with Attorney General's office

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Sucked up in the real estate bust, Levy could be out of the real estate business if he loses case at 225 Rector

Troubled developer Yair Levy is grappling with Attorney General Andrew Cuomo's office in a case that could banish Levy, who left a series of broken real estate deals strewn in his wake during the downturn, from the real estate business for good.

Cuomo's office launched a suit in June accusing Levy of looting a reserve fund and other misconduct at 225 Rector Street, a residential rental building that Levy acquired in 2005 and that he had begun to convert into condominiums.

The project stalled before it could be completed and became embroiled in lawsuits when the lender in the deal, Anglo-Irish Bank, and tenants who had purchased units in the building launched separate suits in 2009.

Last month, after having the building placed into receivership, Anglo-Irish foreclosed on 225 Rector and, according to reports, plans to sell the unsold apartments in the 304-unit property at auction next month. The tenants meanwhile are waiting on the outcome of the Attorney General's case, according to their attorney Marc Held, as their suit essentially contains similar allegations.

During the summer, the Attorney General's complaint said that Levy removed \$1.6 million from the reserve fund at 225 Rector during the months of June through November 2008 to pay for personal expenses such as his Macy's and American Express credit card bills and payroll at the real estate company he operates.

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At 225 Rector, according to the Attorney General, Levy did deposit proceeds from the 72 apartments that he sold, but pulled them out again later illicitly. The Attorney General has also claimed in its case that Levy failed to make hundreds of thousands of dollars of PILOT payments to the Battery Park City Authority, which owns the land where 225 Rector Street is located.

The Attorney General is seeking about \$7.4 million in restitution from Levy for the reserve, the total amount that was supposed to be allocated to the fund, and is also seeking to bar him for life from selling real estate in New York State, a penalty that could push Levy out of the business.

During the summer, the Attorney General appeared to accelerate its case, asking for a default judgment when Levy failed to respond to the complaint in a timely fashion. At a hearing earlier this week however, the judge presiding over the case in State Supreme Court, did not grant that request and heard Levy's argument that the case be dismissed.

Levy's attorney, Andrea Roschelle of the law firm Starr Associates said that Levy had used the money from the reserve not to for his own expenses but for work on the conversion after Anglo Irish Bank stopped funding the project. In court documents, Levy claims he ended up losing \$27 million when the bank foreclosed.

"The claim that Sponsor "raided" subsequent reserve fund contributions have no merit in that those funds were used to fund the Condominium's capital replacement projects," court documents filed by Roschelle on behalf of Levy state. "Moreover, not only did I not benefit financially from this, I have personally taken a staggering loss exceeding \$27 million in contributions I made to purchase, operate the Building and make capital repairs and replacements."

Marc Held, the attorney for the owners in the building, unsurprisingly was skeptical of Levy's claim that he appropriately diverted the reserves to fund construction work when the project began to founder.

"That was the same argument he used during the foreclosure lawsuit, which was thrown out, that the reason why the project failed is because Anglo cut off funding," Held said. "The reason why he failed is that he was either diverting or mismanaging the money, not putting it into the construction. When work stopped, the building looked like a war zone and it's only because Anglo-Irish Bank was good enough to provide additional money to finish a lot of the construction while the building was in receivership that 225 Rector became livable for the tenants in recent months."

Even if Levy had diverted the \$1.6 million to pay for construction work, **Adam Leitman Bailey** said that it would have been illegal to remove the full amount.

"Developers are only allowed to take a third of the reserve fund at most to pay for capital expenses," **Bailey** said.

225 Rector Street isn't Levy's only brush with collapse. Levy partnered with Kent Swig, another developer and investor who has been buffeted by failed deals during the downturn, in the Sheffield, a rental to condo conversion that also eventually bogged down and was seized by one of the project's lenders, Fortress Investment. Levy also recently lost control of 101 West 87th Street, a building that he thrust into bankruptcy last year and that is close to now being sold according to reports. A retail condominium he owns at 102-104 Fulton Street in lower Manhattan is also in default according to reports.

Earlier this year, he and a group of partners nearly lost control of 620 Avenue of the Americas, a retail and office building in Chelsea, when SL Green, one of the property's lenders moved to foreclose after the group defaulted on a mezzanine loan. The group was eventually able to reach an agreement with SL Green that would keep the property in Levy and his partner's control.

Levy couldn't be reached for comment. The Attorney General's office also would not comment on its case against Levy.