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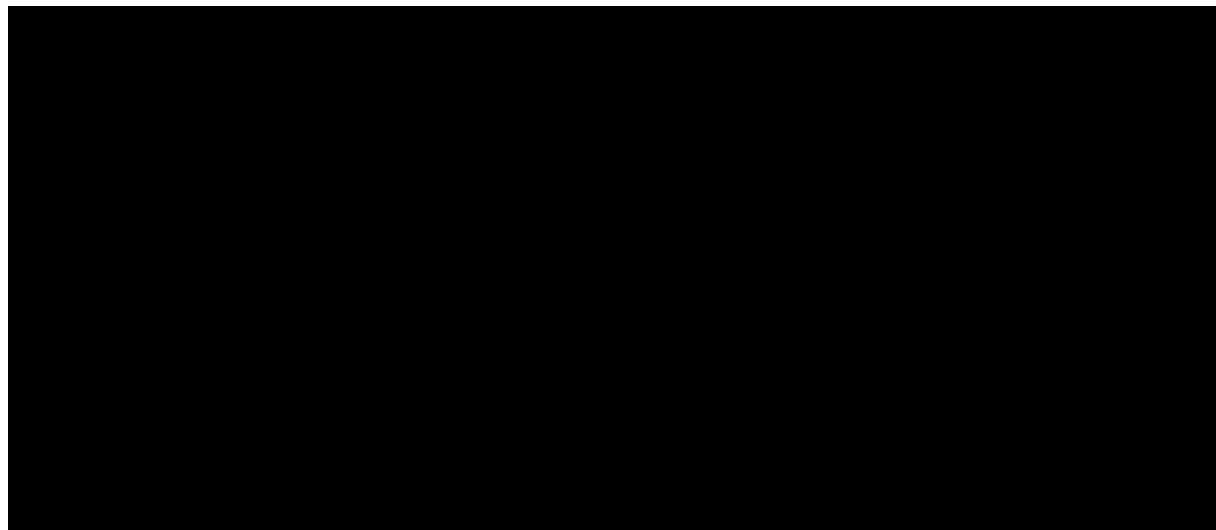
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Ex-Base Village developer accused of racketeering

By Chad Abraham, Aspen Daily News Staff Writer Dec 5, 2017 (0)



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Snowmass Base Village

Photo courtesy Jeremy Swanson



A former developer of Base Village, multiple related entities, two banks and other businesses are accused of racketeering and fraud over the handling of two metropolitan districts related to the massive project.

Related Cos. and affiliates “fleeced” property owners in Base Village Metropolitan District No. 2 for nearly a decade, using the district as a “piggybank” for cash flow, according to the district’s lawsuit. Filed Friday in Pitkin County District Court, it says Related, Related Westpac, Base Village Owner and other defendants installed executives on district boards, used \$32 million in district money to pay back a lender and spent millions more in costs associated with private construction.

The lawsuit is the latest legal fight over Base Village, which was once envisioned at bringing 1 million square feet of residential and commercial space to Snowmass Village, with the aim of turning the town into a year-round resort destination. The project, which halted amid the Great Recession, has gone

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through numerous owners and was eventually foreclosed on by a consortium of European lenders, one of whom, Hypo Real Estate Capital Corp., is named in the latest lawsuit.

Aspen Skiing Co., one of the project's initial developers, and two partners last year bought Base Village for \$56.5 million from Related Cos., which itself had reacquired the development out of bankruptcy in 2012 for \$89 million.

Amid all this were two Base Village Metropolitan Districts, set up in the early 2000s by the SkiCo and fellow developer Intrawest. They imposed property taxes to pay for public infrastructure and services for residents of the 30-acre district. It was anticipated that Metro District 1 would own and operate revenue-generating properties, such as an aqua center, parking facilities, a performing arts center and a conference center, and the second district would handling financing, including bond obligations and other debt.

One defendant is the Front Range law firm of White, Bear, Ankele, Tanaka and Waldron. William Ankele lobbied, on behalf of Intrawest, the town of Snowmass Village in 2004 to create two districts — then later became the lawyer for both district boards, the lawsuit says.

Ankele “collected substantial fees for serving as counsel to the boards, where he rubber-stamped the self-interested actions of Related” and other defendants, the filing says. A message left with Ankele’s law firm was not returned.

Aspen attorney Matt Ferguson and Michael Reiser of California filed the 33-page lawsuit on behalf of Base Village Metropolitan District No. 2.

It alleges that Related and other defendants hired an accounting firm that inflated Base Village’s worth from an initial estimate in 2004 of \$654 million to \$1.2 billion by 2008, when the real estate market was crashing amid the recession. This allowed the district’s board members, “all of whom were affiliated with the developers,” to issue nearly \$48 million in bond debt to help pay off a \$520 million loan that one of its subsidiaries received from Hypo, the lawsuit says. Revenue from development of Base Village, including the sale of 603 condos, by 2012 was to pay the debt.

But with the real estate market in free fall, the true motive of the bond issuance “was for Related and its affiliates to obtain cash in an environment where credit was drying up, and to salvage what they could from a project that they knew was headed for failure,” wrote the plaintiff’s attorneys. “Related and its accomplices knew that the project was not viable at the time the bonds were issued because the real

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estate market was in the midst of collapse.

“At the time the bonds were issued, most of the project remained unbuilt, and defendant Base Village Owner — the borrower on the \$520 million loan from Hypo — was just months away from defaulting on the loan.”

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Ferguson and Reiser wrote that Related commingled \$90 million it spent on private and public infrastructure and filed deceptive reimbursement requests with the district. These figures “included approximately \$20 million supposedly spent on parking facilities that were originally projected to cost just over \$7 million and \$7.1 million spent on a roundabout that initially was projected to cost \$1 million,” the lawsuit says.

Costs that were supposedly within the scope of the bonds, such as the parking garage, were allegedly spent on construction that was private development and should not have been reimbursed by the district. This included the costs of building two foundations for condominium and hotel structures, the lawsuit says.

Employees for Related Westpac, while it controlled Base Village between 2007 and 2010, served on the metro district board, including the company’s director of finance, construction manager, vice president of development and its president, Dwayne Romero.

In a 2013 bond-refinancing move, Romero signed documents “on all sides of this transaction,” as both president of the board of Metro District 2 and vice president of Snowmass Acquisition Co., another Related subsidiary that’s also named as a defendant, the lawsuit says. He allegedly represented that the purchase price of the bond that was sold was “negotiated in an arms-length transaction between unrelated parties.”

Romero said Monday that it is accurate “that I was obviously an officer of the metro district and an officer of the developer.” But he said being on “both sides” of the bond-refinancing move is not uncommon and was internally consistent with the approvals the developer received from the town.

The goal was to refinance junk bonds that resulted from the foreclosure into legitimate mortgage instruments for the district.

“It was expected and approved by” town officials, Romero said.



The lawsuit alleges that Related and affiliates violated the Colorado Organized Crime Control Act, and contains claims for securities fraud, breach of fiduciary duty, unjust enrichment and conspiracy.

chad@aspendailynews.com




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