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Snowmass Village homeowners victims of fraud for eight years, complaint alleges



Rick Carroll
January 1, 2018

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Aspen Skiing Co. formed a joint venture with East West Partners and KSL Capital Partners to buy Snowmass Base Village in December 2016. The financially plagued development at the time was only about a third completed 11 years after construction started.

The two attorneys representing a special district in Snowmass Village contend that its taxpayers were victims of a fraud and self-dealing scheme that persisted for eight years.

It has been a month since plaintiff Base Village Metropolitan District No. 2 filed a civil complaint against former Snowmass Base Village and developer Related Cos. and 14 other associated defendants in Pitkin County District Court.

As of last week, the suit still had not been served on the defendants, said plaintiffs attorneys Matt Ferguson of Aspen and Michael Reiser of Walnut Creek, California. The two lawyers said they plan to collect more evidence, amend the complaint and serve the defendants with the revised lawsuit.

"This is a very serious complaint," Ferguson said. "It had a huge effect on homeowners."

In its current version, the 33-page complaint alleges the defendants engaged in self-dealing by

conspiring in 2007 to cherry pick directors of both Base Village Metropolitan District No. 1, which is not a plaintiff, and Metro District No. 2.

Those appointments came after Related Westpac, a [joint venture between Related Cos. and Westpac Colorado](#), acquired and took over the development of Base Village from Intrawest and Aspen Skiing Co. in 2007 (Skico, East West Partners and KSL Capital Partner [would buy the Base Village development in December 2016](#)).

The two metro districts were established in 2004 to finance the costs of public improvements such as streets, infrastructure, an aqua center and other public amenities to what had been touted as a 1 million-square-foot development. Residents within those district paid property taxes to support the financing. Yet, the suit says few of those public improvements, such as the aqua center, ever came to fruition.

[While under the control of Related Cos. and its affiliates](#), Base Village's value was artificially bloated in August 2006 to nearly \$1 billion "to make it appear as though the districts could service more debt than was actually possible," the suit alleges.

In 2007, Related suspended all projects not being built and in 2008, with real estate values taking a beating because of the Great Recession, a Related Cos. consultant valued the entire project at \$1.2 billion, the suit contends.

Meanwhile, the suit alleges Metro District No. 2's board — comprised of solely Related employees and associates — voted in June 2008 to issue \$47.5 million in bond debt to help a Related subsidiary satisfy a \$520 million loan to Hypo Real Estate Capital Corp., which also is a defendant.

"Indeed, on the day the 2008 bonds were issued, Related and its accomplices caused to be paid nearly \$32 million from the district's money to its private lender, defendant Hypo, ostensibly for work on public improvements from the bond proceeds, even though many of the promised 'improvements' that were being reimbursed were only half completed and other improvements were billed at multiples of the actual cost," alleges the suit, adding that the "most important improvements that were promised were never built."

District taxpayers also were not reimbursed for what the suit said were "millions of dollars of costs" associated with private construction on the project.

The project was put into receivership in 2012 after a Related subsidiary defaulted on the Hypo loan. Hypo acted as receiver, meaning it seized financial control of the project.

Still, Related and its entities, through what the suit calls a "complicated" scheme, continued to use funding from Metro District No. 2 to "mitigate their losses from the economic downturn and then, as

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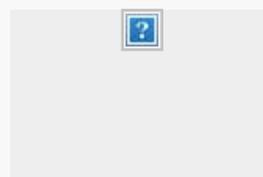
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years passed, continue to provide at the district's (and ultimately taxpayers') expense."

After a series of lawsuits with Hypo, Related would emerge from foreclosure and receivership and continue to profit from the metro district, the suit says.

Among the lawsuit's claims are securities fraud, conspiracy, unjust enrichment and violation of the Colorado Organized Control Act.

Pitkin County is home to dozens of overlapping taxing areas, from the Aspen Consolidation District to the Pitkin County Library District.

Accounting for one-third of government in America, according to the Colorado Department of Local Affairs, the districts "are created to fill the gaps that may exist in the services counties provide and the services the residents may desire. The majority of districts draw their boundaries in unincorporated county land, but residents of a municipality may be included in one or more districts."

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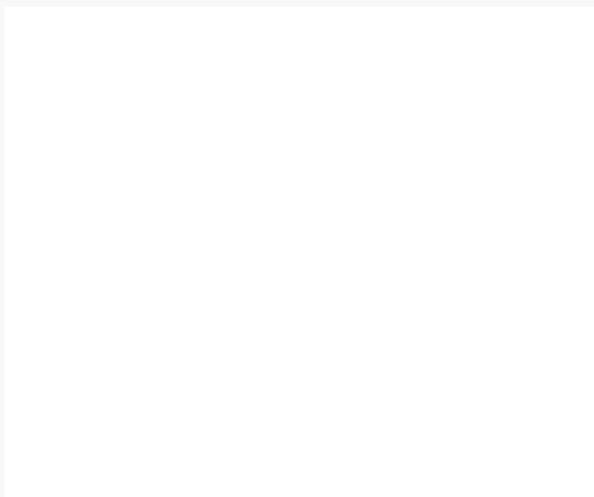
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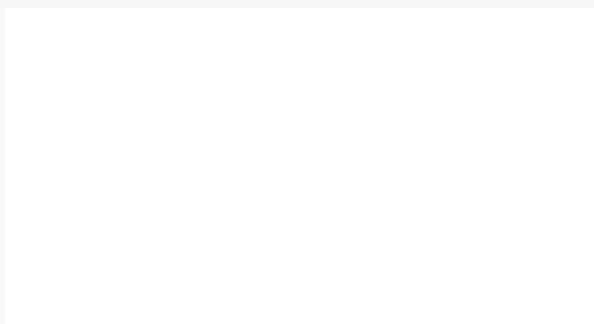


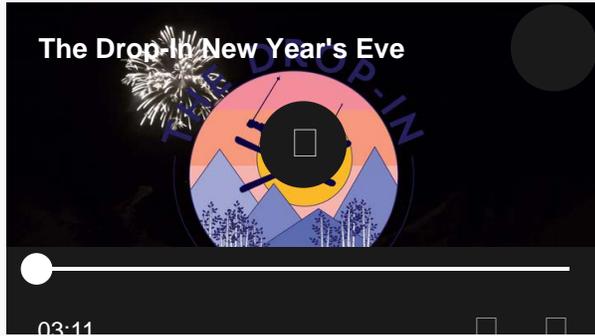
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