



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Judge Cautions About Harming Surfside Site's Value

By **Nathan Hale**

Law360, Miami (September 23, 2021, 6:45 PM EDT) -- A day after a conditional "stalking horse" contract was signed for the site of fallen condominiums in Surfside, Florida, the state court judge overseeing related litigation cautioned Thursday against public statements questioning the property's fate, which he said would only hurt its eventual sale price and victims' recovery.

Akerman LLP partner Michael Goldberg, the court-appointed receiver for Champlain Towers South's condominium association, reported during a Zoom status conference that he received the signed contract from an unnamed bidder the day before. A final sale will require court approval after a public hearing, but the \$120 million agreement is intended to provide a guaranteed baseline price as the receiver works on drumming up multiple bidders for a competitive auction.

At several points during a Thursday hearing, however, Judge Michael A. Hanzman of the Eleventh Judicial Circuit in Miami-Dade County expressed concerns about recent public statements that spread "irresponsible information and incendiary commentary" about the litigation and sales process, and threatened to devalue the property.

The judge made some of his comments later in the hearing while responding to families of some of the 98 victims who insist a memorial should be built on the site of the June 24 building collapse, but his strongest words were directed at Surfside Town Commissioner Eliana R. Salzhauer.

Judge Hanzman did not mention Salzhauer by name, but he referenced her recent description of a **proposed land swap** between the victims and the town as "delusional." He also cited a New York Times article from this week in which the commissioner attacked the motives of lawyers in the case and potential buyers, and suggested without evidence that the property might be "unbuildable."

The judge reiterated that the real estate sale and insurance money might be the primary sources for compensating victims, pointing out the potential for a huge gap between the potential value of those assets and what he said could be more than \$1 billion in combined property, bodily injury and death claims, if viable claims against deep-pocketed third parties do not materialize.

He said he would not stand for further statements maligning potential buyers and especially attorneys and other professionals involved in the litigation, who he noted were working either with no expectation of compensation or at steeply reduced rates.

"Everybody has a right to their opinion and everybody has a right to their commentary, but people do not have a right to spread lies and falsehoods about the professionals who are working on this case and the process that this court is supervising, and it will not be tolerated any further," Judge Hanzman said without explaining what further steps the court might take.

"I want to make it loud and clear that [the court's] patience has now expired," he added.

Responding to questions and comments from victims and family members later in the hearing, Judge Hanzman tempered his message but remained adamant that the property would be sold, saying that he cannot make decisions based on religious and philosophical grounds.

"I understand that when people make these comments and advocate they're not 'trying' to devalue the land, but they are," he said.

He said he had no problem with families continuing to search for a buyer who might donate the land

for a memorial or other options, but urged them to think twice about holding news conferences and making statements that will devalue the property.

Under the terms of the stalking horse contract, once the receiver gets possession of the land from the county in the next few weeks, the bidder will pay \$150,000 for the right to a 60-day inspection and due diligence period. If the bidder decides to proceed after that, a \$16 million deposit must be posted that is nonrefundable if the bidder later walks away, Goldberg said.

Goldberg and Michael Fay of real estate broker Avison Young said they were aiming to hold an auction in late February or early March. Judge Hanzman said he had hoped to hold an auction sooner and expects them to stick to that plan.

"This is a firm timeline, and there's not going to be a lot of play in the joints," he said.

Fay said his office had fielded dozens of calls from potential buyers.

In other updates, the court approved a motion to release nearly \$1.2 million in insurance proceeds for Universal Property & Casualty Insurance Co. policies tied to 11 units.

At a former resident's request, Judge Hanzman also authorized the receiver to issue an additional \$5,000 per family in relocation relief to displaced residents on top of previous assistance payments of up to \$10,000.

Goldberg reported that he had worked out a new claims process for victims to recover personal possessions recovered from the rubble that would involve his posting photos of items in county possession on a password-protected website so victims can enter claims. The court would decide any disputed claims.

And the receiver told the court that first responders had found about \$750,000 through the site. Goldberg said he would file a motion to transfer the money to the U.S. Treasury, which will clean it and send back a check. Money that can be connected to specific owners will be returned, but the majority of it will be placed in a general fund for all the victims.

Counsel for the plaintiffs said they were focused on their investigation into possible claims against other parties and remained on schedule to meet a Nov. 16 deadline for an amended complaint.

Rachel Furst of Grossman Roth Yaffa Cohen PA said that with several subpoena deadlines coming due last week, they had received their first resistance to some discovery requests.

In response, Judge Hanzman said he would enter a standing order giving three business days for objections to be filed in response to discovery requests instead of the standard 25-day briefing period.

"As I said before, this case is not going to be business as usual," he said.

The parties also said they were close to filing a complaint to terminate the condominium association.

The plaintiffs are represented by Harley Tropin and Javier Lopez of Kozyak Tropin Throckmorton, Rachel Furst of Grossman Roth Yaffa Cohen PA, Ricardo Martinez-Cid of Podhurst Orseck PA, Adam Moskowitz of The Moskowitz Law Firm, MaryBeth LippSmith of LippSmith LLP, John Ruiz of MSP Recovery Law Firm, Brad Sohn of The Brad Sohn Law Firm PLLC, John Scarola of Searcy Denney Scarola Barnhart & Shipley PA, Robert Mongeluzzi of Saltz Mongeluzzi & Bendesky PC, Shannon Del Prado of Pita Weber Del Prado, Gonzalo Dorta of Dorta Law, Judd Rosen of Goldberg & Rosen PA, Luis Suarez of Heise Suarez Melville PA, Jorge Silva of Silva & Silva PA and Willie Gary of Gary Williams Parenti Watson & Gary PLLC.

Goldberg is represented by Paul Singerman and Jordi Guso of Berger Singerman LLP.

The case is In re: Champlain Towers South Collapse Litigation, case number 2021-015089-CA, in the Eleventh Judicial Circuit Court of the State of Florida.

--Editing by Bruce Goldman.

All Content © 2003-2022, Portfolio Media, Inc.