

LEGAL BUSINESS

Would-be free trade zone warehouse in dispute again

BY PAOLA IUSPA

A never-occupied, 150,000-square-foot warehouse built a decade ago as a free trade zone could finally be put up for sale if the bankruptcy court sides with one of the former business partners.

In the past two years, film production, high-tech and trading companies have been interested in buying the abandoned building with an unfinished interior, according to Robert Stok, the lawyer representing Dade Foreign Trade Zone of Miami, one of the former partners battling over the project.

Legal disputes among three former partners has frozen the fate of the 12.6-acre Wynwood Industrial Complex, north of downtown Miami about 10 blocks west of Biscayne Bay.

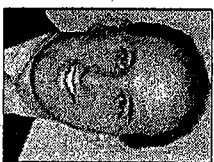
The complex, at 2235 N.W. Fifth Ave., resulted from a partnership among Wynwood Community Economic Development Corp. of Miami, headed by William Rios; Dade Foreign Trade Zone (DFTZ) of Miami, headed by Oded Meltzer; and the city.

In 1991, the nonprofit Wynwood group received a federal permit to run a free trade zone and the city donated the land. The project's purpose was to create jobs for residents in the low-income neighborhood. The city mandated that the group pay property taxes.

The third partner in the project was DFTZ, a for-profit group. Its mission was to build, manage and sublease the warehouse and about 10,000 square feet of office space.

The former partners have been suing each other since 1994 in federal, state and county courts on issues including ethnic discrimination, foreclosure, title transfers and property ownership. Each claims to be the owner. The 6-year-old warehouse was never completed and the Wynwood group stopped paying taxes.

The case is in the Bankruptcy Court because DFTZ filed for Chapter 11 protection in January. They are asking a bankruptcy judge to establish ownership to allow the sale of the property, said the group's lawyer, Andrew Hellingger, of the Miami firm of Meland, Russin, Hellingger & Budwick.



Hellingger

A court filing by DFTZ says it owns the building because it invested \$3.5 million to build the warehouse and purchase the complex's parking lot.

The complaint recognized the city as the sole owner of the 12.6 acres, as the land automatically reverted to the city when the Wynwood group failed to operate the trade zone and pay taxes, the document showed.

DFTZ officials asked the bankruptcy judge to allow them and the city to jointly sell the building and the land. A hearing is scheduled for June 24.

The vacant site has in part stalled the revival of a neighborhood beginning to

receive capital from developers looking to build mixed-use projects in infill areas.

"My client views Wynwood Community Economic Development Corp. as an impediment to positive development of the area," Hellingger said.

But the economic development agency strongly opposes DFTZ's claims and is fighting to drag the case back to the state court, where things seemed to favor the Wynwood group, said Sheryl Ziegler, director of housing and community development at The Lawyers Committee for Civil Rights under Law in Washington, D.C.

"We filed a motion to have this case sent back to the state court, where we have already a litigation going on," she said.

She said the Wynwood group owns the land and the building. DFTZ has nothing to do with the complex anymore because the agreement that it had with the economic development agency expired in 2000, she said. Wynwood owns the parking lot because DFTZ bought it using the 12.6 acres as collateral, Ziegler said.

"They bought it illegally," she said. "They used our land to pay off their mortgage. We contend they hold the land on our behalf." The economic development agency does not want to sell the complex because it is still interested in opening the free trade zone, Ziegler said. "That's what we have been trying to do for 15 years."

She said DFTZ did not stand a chance in

the state court so it filed for Chapter 11 to delay any final judgment.

DFTZ officials May 29 disagreed with Ziegler and said the case has more chances to be resolved in the bankruptcy court than in the state court.

They want to sell the complex to recover part of the \$11 million spent on construction, legal fees and other costs, said Stok, the lawyer representing DFTZ.

Last year, the state court asked the city whether it would consider selling the property, said Miami City Attorney Alex Viarellio. Back then, he said, he was willing to recommend a sale, but only if it would have generated enough funds to cover the more than \$5.5 million in federal funds the city lent to the Wynwood group for the complex, plus other costs, he said. After the nonprofit failed to repay the loan, the city in 1999 began a foreclosure action.

But Viarellio's position has changed. "I am not longer going to make that recommendation to the city commission," he said. "But we are always exploring ways to get the land back and the case resolved." The state court in the past three years was unable to make a final judgment, he said. "This is a better place for the case to be in," he said.

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