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# Chinese Investors Say Regional Center Hid Growing Obstacles

By **Grace Dixon**

Law360 (August 30, 2022, 7:10 PM EDT) -- Chinese investors filed suit against an EB-5 regional center in New York federal court, alleging the center misled investors backing a project to renovate part of the George Washington Bridge Bus Station and squandered their funds to the tune of \$57 million.

The coalition of 107 individual investors filed **suit** against New York City Regional Center LLC, or NYCRC, on Monday challenging the center's handling of a loan to George Washington Bridge Bus Station Development Venture LLC, tapped by the Port Authority of New York and New Jersey to upgrade retail space in the bridge's bus terminal.

The investors laid out a yearslong scheme for the court in which the regional center allegedly misled potential investors about the security and scope of the investment and hid various setbacks from current investors, all while continuing to reap administrative fees.

"Not only did NYCRC fraudulently induce the investor plaintiffs to invest in its investment vehicles and fail to protect those investors' interests upon the occurrence of several loan defaults, but NYCRC also failed to inform the investor plaintiffs of the project's problems after they had invested," the coalition said.

"NYCRC was able to prolong the period during which it managed the project and therefore prolonged the period during which it received management fees from the investment vehicles, ultimately collecting more than \$20 million in fees," the investors added.

The development company reached an agreement with the port authority to expand and upgrade retail space at the bridge's bus terminal and restore the terminal itself in 2008. The company committed to spending \$100 million in exchange for a 49-year lease while the port authority promised an additional \$78 million for terminal upgrades.

But the plans took a hit from the recession. In 2011 the development company decided to bypass institutional lenders, instead seeking financing from the EB-5 program, which reserves green cards for foreign investors who commit capital to a U.S. project and create at least 10 jobs in the U.S. The company turned to EB-5 regional center NYCRC, which pools and facilitates investments from foreign EB-5 investors.

In turn, NYCRC created an EB-5 special purpose vehicle designed to lend the company \$72 million and solicited investors, earning itself \$5.83 million in upfront fees in addition to \$1.44 million in annual management fees.

When soliciting potential Chinese investors, NYCRC falsely suggested that the EB-5 investment was mainly backed by government funding; that construction work would be done by a company that instead had backed out of the project; that the fund could take possession of the bus terminal if the development company defaulted; and that the collateral was worth more than twice the EB-5 investment, among a host of other misrepresentations alleged in the complaint.

Once investors advanced the loan to the development company, construction was delayed by a search for a contractor and by damage from Superstorm Sandy. Once the project got off the ground, it became clear that \$19 million more than anticipated would be needed to finish work on the retail

component, investors alleged.

Though both the storm damage and cost overruns were grounds for default, NYCRC did not declare default, nor did it alert investors of the issues, according to the complaint. Instead, NYCRC created a second EB-5 fund to cover the shortfall, hiding this fact from the initial investors and making many of the same misrepresentations to the new investors while hiding growing cost overruns and construction delays, investors alleged.

According to the complaint, investors did not learn the scope of information NYCRC had allegedly hidden until the contractor began arbitration against the development company, the port authority halted funding, and the company stopped paying the contractor and eventually filed for bankruptcy in October 2019, prompting investors to retain counsel.

Both phases of investors are owed upward of \$57.78 million, including lost investment, punitive damages, interest and fees, the investors said.

Though NYCRC did not respond to requests for comment on Tuesday, the company's website states that construction of the EB-5 project is complete.

The investors are represented by Robert Seabrook Landy of Ford O'Brien Landy LLP.

Counsel information for NYCRC was not immediately available on Tuesday.

The case is Bai et al. v. New York City Regional Center LLC, case number 1:22-cv-07383, before the U.S. District Court for the Southern District of New York.

--Editing by Robert Rudinger.