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A deal may allow a Fisher Island luxury condo development to begin construction after long delays

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MARICE COHN BAND / MIAMI HERALD STAFF

Fisher Island condos with their private Atlantic Ocean beach in May 2010. The island may soon get two new condo developments if a bankruptcy judge approves a deal among parties battling over ownership of 18 acres.

The development of luxury condos on Fisher Island — stalled for years during an international battle among mysterious offshore companies and would-be heirs — may soon go forward, even as a spirited clash continues over ownership of the 18 acres.

The fight has stretched through courts in the United Kingdom, Liechtenstein, the Republic of Georgia, Gibraltar and the United States. It is complicated by a mind-boggling maze of corporate structures and trusts and spiced with speculation of political assassination and treachery fit for a Russian spy novel.

After six years, the warring parties have come together to ask U.S. Bankruptcy Judge A. Jay Cristol to bless a deal that will allow Fisher Island Investments to break ground on the upscale condo project — capitalizing on Miami's red-hot

boom in ultra luxury construction — even as key issues remain in dispute, including who is the rightful owner of Fisher Island Investments.

“This is really is just a path to be able to develop the property and capture the value of the development for anyone and everyone,” said Patricia A. Redmond, an attorney for Fisher Island Investments.

The developer plans to build 94 fancy units, equally split between two projects, the Palazzo del Sol and the Palazzo del Luna.

The deal prompted the postponement (and likely cancellation) of an online foreclosure auction of some parcels of the land that was set for Thursday.

Judge Cristol set a Feb. 5 hearing to consider the agreement, which brings together two opposing groups that both claim ownership to the land and creditors for the common goal of making the best of the embattled assets.

“Everybody agrees the best thing is for this project to go forward,” said Craig Pugatch, an attorney who represents creditors.

The deal would enable Fisher Island Investments to obtain title insurance on the land, a key ingredient to getting construction loans.

At a Miami bankruptcy court hearing Wednesday, Cristol was ready to listen to attorneys outline the

agreement, but Redmond, Fisher Island Investments' attorney, told the judge the title company required the parties in the case get two weeks notice.

Once title insurance is in hand, the developer expects to finalize a deal to modify the soured mortgage, which was once held by insurance giant AIG, but was acquired by a mysterious Channel Islands company whose owners are — you guessed it — unknown.

The future of Fisher Island, whose 33109 ZIP code is routinely cited as one of the nation's wealthiest, has been under a cloud since the sudden death of an East European billionaire who controlled the island's undeveloped land and development rights through a Byzantine structure of trusts and offshore corporations.

Arkady "Badri" Patarkatsishvili of the Republic of Georgia, made a fortune in the break up of the Soviet Union. He died at age 52 at his home in Surrey, England, in February 2008, according to newspaper reports. While police initially looked for foul play, his death was ruled natural, the reports said.

Intrigue multiplied in 2013, when Patarkatsishvili's friend and business associate, Boris Berezovsky, a wealthy Russian oligarch who fell out of favor with the Kremlin, was found hanged in an apparent suicide in his home in Surrey. His death fueled media speculation of whether he was murdered.

The death of Patarkatsishvili, a snowy-haired man with an oversized handlebar mustache who had just run for president of Georgia, provoked a global brawl for his wealth.

One side is aligned with his family and widow, Inna Gudavadze, who lives in England.

The other includes entities related to Patarkatsishvili's former business associates, including his cousin, Joseph Kay. The parties, which so far have lost claims to ownership amid allegations of falsifying documents, have been represented by Emanuel Zeltser.

New York-based Zeltser is an American-Russian attorney who according to a court-appointed examiner was "sentenced to three years in a Belarusian penal colony in August 2008 after being convicted on charges of attempted industrial espionage and the use of fake documents."

Judge Cristol once quipped the case presented "an extremely uncommon circumstance" in which "[T]wo factions have waged a fierce and protracted battle to 'win' the title of debtor in a bankruptcy proceeding."

He appointed James S. Feltman as examiner to take a deep dive into who was the rightful owner.

In a 93-page report, the examiner concluded the widow's side was the rightful heir of the Fisher Island property, among other things. A court in Gibraltar had already reached the same conclusion. A federal district court has confirmed Cristol's finding, and the case is on appeal to the 11th Circuit Court of Appeals.

The whole affair has left Fisher Island residents nonplussed.

"We're as much in the dark as anybody," said Dr. Irwin Potash, a long-time resident and board member of the Fisher Island Community Association, the master homeowners group. "We don't know who the developer is to be. Who bought out the AIG note, we don't know. We can't figure out what's going on."

Potash added: "We'd like to see the project finished. It's in our benefit."

Fisher Island resident Tom Murphy Jr., who is chairman and CEO of Miami-based Coastal Construction and has built homes on the island, including four for Oprah Winfrey, said: "If it never gets built, we have what we have. But that's not a likely scenario. Obviously there's great value in the parcels left to develop."

Murphy added: “If they don’t get started, they might miss another rally, another boom.”

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