



# REAL ESTATE REVIEW

## EVENTS

### Today

**Latin Builders Association Legislative Committee:** Breakfast and discussion on "Public Private Partnerships Relating to Transportation Opportunities in Florida," 8:30 a.m., LBA Headquarters, 4110 Laguna St., Coral Gables. Free for members, \$10 nonmembers. Call (305) 446-5989.

**Florida Realtors and the Florida Bar:** "As Is" residential contract and short sale addendum, 9:30 a.m., Elks Lodge, 6304 SW 78th St., South Miami. Cost: \$45. Call (305) 468-7000.

**Commercial Industrial Association of South Florida:** Holiday party and cocktail buffet, 5:30 p.m., 11098 Marin St., Coral Gables. Cost: \$20 members, \$35 nonmembers. E-mail: info@ciasf.com.

### Dec. 11

**Women's Council of Realtors Greater Palm Beach chapter:** Installation and awards gala, 6 p.m., The Club at Boca Pointe, 7144 Boca Point Drive, Boca Raton. Cost: \$50. Call (561) 893-0280.

### Dec. 13

**Realtors Association of the Palm Beaches:** "Crawl, Walk & Run" R.E. Basics 104 — "The Sale of Real Estate," fourth and final session, 1 p.m., RAPB Lake Worth Conference Center, 1926 10th Ave., Fourth Floor, Lake Worth. Cost: \$25 members, \$40 nonmembers, \$100 for four courses for members, \$160 for four courses for nonmembers. Call (561) 997-8266.

### Dec. 14

**Realtor Commercial Alliance Miami:** The Art of the Commercial Lease, 9 a.m., Miami headquarters, 700 S. Royal Poinciana Blvd., Suite 400, Miami Springs. \$15 members, \$30 nonmembers. (305) 468-7000.  
**Realtors Association of the Palm Beaches, Global Alliance of the Palm Beaches and Toll Brothers:** Holiday Around the World luncheon, noon, Ocean's Edge, 5050 North Ocean Drive, Singer Island. Cost: \$5 members, \$10 nonmembers. E-mail: bkrause@rapb.com.

FOR MORE EVENTS, SEE PAGE A9

## PEOPLE

Esslinger Wooten Maxwell Realtors has added five associates to its Coral Gables office.

**Thomas Evans** was with RE/Max Advance Realty.

**Leena Heiman**, was the CEO of Ave Phoenix.US.

**Caroline Irvin** was an inspector with the Miami-Dade Department of Environmental Resource Management.

**Elisabeth Perdigon**, was a sales associate with Coldwell Banker.

**Matthias Steiner** was a manager at Medical Care Solution.

**Connie Queralt** has been named director of accounting and human resources for The Kislak Organization, a real estate and financial services firm. Queralt was vice president of Kislak Mortgage.

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**BANKRUPTCY** Mario Egozi claims note-holder violated Helms-Burton Act

# DEVELOPER CITES CUBA LAW IN A BID TO KEEP PROPERTY

by Erik Bojnansky  
Special to the Review

A developer fighting to retain control of a North Bay Village condominium wants to use as leverage a U.S. law designed to penalize foreign companies doing business with Cuba.

Mario Egozi, who heads Harbour East Development, wants U.S. Bankruptcy Judge A. Jay Cristol to allow him to prove Cielo on the Bay's mortgage holder violated the 1996 Helms-Burton Act that bans the "trafficking" of property confiscated during the Cuban revolution.



Cristol

Harbour East Development filed for Chapter 11 bankruptcy protection on April 22. That put on hold a foreclosure action launched by 7935 NBV.

Now Egozi is asking Cristol to allow him to subpoena documents from the French-Canadian real estate firm Thibault Messier Savard & Associates that are related to the development of a resort hotel in Cayo Coco, Cuba. Egozi believes TMSA and the Cuban government may have built the hotel on land seized from American Sugar following the Communist takeover of the island nation.

The developer also wants Cristol



JILL KAHN

Cielo on the Bay developer Mario Egozi says a Canadian firm that holds the mortgage on his bankrupt property also does business in Cuba, a violation of federal law.

to approve the hiring of Gutierrez Zarraluqui & Franco as a "special counsel" to investigate alleged violations by TMSA of the Helms-Burton Act, the USA Patriot Act and other federal laws.

Cristol is scheduled to hear arguments on Dec. 16 at 10:30 a.m.

Paul Bauch, lead counsel for Harbour East Development, said Cristol's decision could set a prec-

edent on how the Helms-Burton law is enforced. Bauch, a partner in Bauch & Michael in Chicago, said there is evidence that TMSA did business in Cuba.

"The question is, what is the impact of all of this? The purpose of the law was if you do business in Cuba, you are not supposed to do

**SEE EGOZI, PAGE A9**

**GOVERNMENT BUDGETS** Across country, homeowners petition for relief

# Appeals soar as property prices plunge

by Jeff Green  
and Tim Jones  
Bloomberg News

A fiscal flood that threatens to swamp local government budgets across the U.S. overflows from file cabinets in the office of Patty Halm, chair of the Michigan Tax Tribunal.

The backlog of cases from taxpayers seeking to lower property-tax bills of more than \$100,000 shot up to 14,236 this year from an annual average of about 6,000 during the past decade. The backlog of smaller claims was at 28,558 at the end of September, eight times higher than a decade ago, according to records at the tribunal, a Lansing-based administrative court.

From Los Angeles to Atlantic City, the New Jersey gambling resort whose credit rating Moody's Investors Service cut by three levels last month, property owners are demanding lower taxes after real-estate values plunged. The disputes over billions in dollars come as municipalities are already slashing services such as police and fire protection and may depress revenue further as communities try to recover from the longest recession since the 1930s. In Michigan, Gov.-elect Rick Snyder has warned that hundreds of towns face financial cri-



JIN LEE/BLOOMBERG NEWS

Greg Lippmann of LibreMax Capital says home prices may drop by 10 percent more.

ses. "We're just getting swamped," said Halm, 54, who was appointed in 2003. "We're constantly buying new file cabinets to hold all the cases. We even have six surplus file cabinets in the courtroom."

Home prices are 30 percent below their peak of April 2006, according to the seasonally adjusted S&P/Case-Shiller index of property values in 20 cities. They may drop 10 percent more, Greg Lippmann, a founder of New York-based LibreMax Capital, said Dec. 2 at the Hedge Funds New York Conference hosted by Bloomberg Link.

Meanwhile, the Moody's/REAL Commercial Property Price Index of commercial property is 43 percent below its October 2007 peak.

"If we look into the future, assessments will have to reflect the market value, and two years out, property-tax receipts will have to be coming down," Michael Pagano, dean of the College of Urban Planning and Public Affairs at the University of Illinois, said. "If the appeals are largely successful, they will generate a lot more appeals."

In Michigan, seven judges and 15 hearing officers are clearing the backlog. Five additional staff mem-

**SEE APPEALS, PAGE A16**



FROM PAGE A7

# EGOZI: Canadian firm TMSA touts Cayo Coco project on its website

business here [in the U.S.],” he said.

Bernard Thibault and Mario Messier, two of TMSA's three co-founders, are also principals of 7935 NBV, a Lauderhill-based subsidiary that holds a \$14.4 million defaulted mortgage note on Egozi's 16-story, 35-unit project.

Bauch said if TMSA bought and sold land seized by the Cuban government, then 7935 NBV “has no standing in this case and can't do business here.”

Nicolas Gutierrez, an expert on the trade embargo against Cuba and a partner in the law firm Egozi wants to hire, said a more likely scenario could be that TMSA's principals, as well as their agents, spouses and children, will be blocked from visiting the U.S.

“They get put on a Customs lookout list,” said Gutierrez, of Gutierrez Zarraluqui & Franco.

## DELAYING TACTICS?

Jose Casal, a Holland & Knight attorney who represents 7935 NBV, opposes the subpoena and the move to hire Gutierrez's firm as a “special prosecutor.”

“They believe that Helms-Burton some way, somehow prevents my client from enforcing the promissory note,” he said. “We absolutely disagree with that, and we have the legal reasons why they are way, way off the mark.”

Casal also argues that Egozi's Helms-Burton arguments are desperate delaying tactics that have nothing to do with Cielo on the Bay's future.

“We are getting so far afield of what the real issue is, which is you have a Chapter 11 case, you have a condominium that has 31 unsold units, and you have a lender that has a loan that matured in 2009 and hasn't been paid a penny since,” he



**“It is a very odd case. It just seems like a long shot to try to bring Cuba embargo issues into a banking case.”**

**MAURICIO TAMARGO  
FOUNDING PARTNER  
POBLETE TAMARGO**

said.

Casal said 7935 NBV is an investment fund with no ties to the Cayo Coco deal. The attorney said the Cayo Coco project involved “a separate foreign entity indirectly related to one of the investors in the investor fund that owns 7935 NBV” which participated in the joint venture in Cuba.

“The investment of the foreign entity was made in compliance with U.S. laws,” he added.

Yet TMSA's website, tmsa.com, touts the El Senador project in Cayo Coco, describing it as a Caribbean resort complex it bought in 2000 and converted into a “four-star hotel comprised of 690 rooms, nine restaurants, four bars and a discotheque.”

## EL SENADOR SOLD TO NH HOTELS

According to several media reports, Serge Savard, TMSA's third co-founder, spearheaded the venture until the group's interest was sold to Spain-based NH Hotels in 2005. Known as “The Senator,” Savard is a former captain of the National Hockey League's Montreal Canadiens.

Bauch argues that because TMSA sold its interest in the Cuba project, the principals are “traffickers” in confiscated property under Helms-Burton. Bauch said that TMSA's past deals with the Cuban government may violate the USA Patriot Act because Cuba supported organizations the U.S. has deemed to be terrorists such as the Colombian rebel group FARC.

Casal counters it is up to the U.S. Treasury Department's Office of Foreign Assets Control, and not a bankruptcy court, to determine whether there is any violation of Helms-Burton.

So far, OFAC has not ruled that TMSA, 7935 NBV or any of its investors have violated federal laws dealing with Cuba.

Bauch said OFAC's stance may change if TMSA can obtain and submit material on El Senador to the U.S. attorney.

“If you are here in the United States, you are subject to its laws and jurisdiction,” he said.

**Mauricio Tamargo of the Washington, D.C., firm Poblete Tamargo heard Helms-Burton cases when he chaired the Foreign Claims Settlement Commission for the**

**U.S. Justice Department.**

Tamargo said he knows of only four foreign companies that OFAC said violated the Helms-Burton Act. Of those four, the executives of only one company, the Canadian mining concern Sherritt International, had visas to travel to the U.S. revoked.

Even if OFAC does rule that TMSA violated Helms-Burton, Tamargo doubts it will stop the noteholder from foreclosing on the Cielo note.

“It is a very odd case,” said Tamargo, who is not involved in the case. “It just seems like a long shot to try to bring Cuba embargo issues into a banking case.”

It is a strategy Egozi has threatened to use since Harbour East filed for bankruptcy eight months ago.

During several months of litigation, Egozi and 7935 NBV have fought over issues ranging from how the building's 31 unsold units should be marketed to whether the units should be leased as apartments.

Egozi has long alleged that 7935 NBV, which he claims bought his mortgage note from Northern Trust Bank for \$8 million, wants him to fail so it can seize his unsold units. 7935 NBV's lawyers insist that they just want to protect the mortgage holder's investment.

In October, Judge Cristol suggested both parties mediate. So far, no mediation sessions have taken place.

Bauch said the information Harbour East Development seeks will help his client determine whether “TMSA is able to participate in these proceedings,” especially after they share the information with the State Department.

“It could be nothing,” Bauch acknowledged. “Or it could be everything.”

## EVENTS FROM PAGE A3

**Dec. 15**  
**Women's Council of Realtors, Miami-Dade chapter:** Installation of officers, 11:30 a.m., Shula's Hotel and Golf Club, 6842 Main St., Miami Lakes. Cost: \$30. E-mail: maria@colonialtitle.us.  
**National Association of Women in Construction, Miami chapter:** Holiday celebration, 5:30 p.m., Sabadell United Bank, 1111 Brickell Ave., 30th floor, Miami. Free. Call (786) 621-9004.

**Dec. 16**  
**Miami Association of Realtors:** “Understanding the Residential Leasing Process,” 9 a.m. registration, 12:30 p.m. seminar, 700 S. Royal Poinciana Blvd., Suite 400, Miami. Cost: members \$15, non-members \$30. Call (305) 468-7000.

**Dec. 17**  
**Realtors Association of the Palm Beaches:** Nuts

& Bolts of Short Sales, REOs – How to Avoid the Pitfalls,” 9:30 a.m. seminar, Lake Worth Conference Center, 1926 10th Ave. N., Lake Worth. Members free, \$15 non-members. (561) 585-4544, ext. 135.

**Jan. 13**  
**Miami Association of Realtors:** “Update on What's Happening on the Miami River, 9 a.m., Vessel docked at Bayside, 401 Biscayne Blvd.,

Miami. Cost: \$25 members, \$40 nonmembers. Call (305) 468-7000.

**Jan. 18**  
**Realtors Association of the Palm Beaches:** “Turning Internet Prospects into Suspects into Customers,” seminar 9:30 a.m., 1926 10th Ave. N. Lake Worth. Free for members, \$15 nonmembers. E-mail: dmacdonald@rapb.com.

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