



This Site | Law.com Network | Legal Web
Enter Keywords

SUBSCRIBE | [RSS Feed](#) | [Twitter](#) | [Facebook](#)

- [Home](#) | [Legal](#) | [Real Estate](#) | [Finance](#) | [Special Reports](#) | [Newsletters](#) | [Court Central](#) | [Public Notices](#) | [DBR Events](#) | [Products & Services](#) | [Advertise](#) | [Classifieds](#)

[Home](#) > [Boca real estate group sued for \\$32.4 million](#)

Font Size:

Boca real estate group sued for \$32.4 million

Polyana da Costa
Daily Business Review | November 17, 2009

- [Print](#) | [Share](#) | [Email](#) | [Reprints & Permissions](#) | [Write to the Editor](#)

A subsidiary of Capmark Financial, which is in Chapter 11 bankruptcy proceedings, has filed a \$32.4 million lawsuit to foreclose on a Boca Raton office complex headed by the principals of a prominent local real estate group, the Ashkenazy & Agus Ventures.

Capmark claims the property did not pass a periodic 18-month performance test, which according to the loan agreement required the property's cash flow to cover the debt service on the loan. After the test, which was conducted in March, Capmark demanded the borrowers pay \$8.6 million to lower the outstanding debt and rebalance the mortgage payment with the property's revenue. The amount remains unpaid, and Ashkenazy stopped making the regular monthly mortgage payments in August, according to the lawsuit.

Boca Raton-based Ashkenazy and real estate funds managed by Borrow Street Capital, an investment firm based in Connecticut, bought the seven-building complex in 2007 for \$33 million. The acquisition was made through a limited liability company called Birkat Harav Camino Fee Owner LLC.

Ashkenazy renovated the 190,000-square-foot complex, which was then called Camino Real Centre, and renamed it Fountains at Camino Real.

Capmark Bank, a Utah-based industrial bank and a subsidiary of Capmark Financial, issued two loans totaling \$32.4 million for acquisition and renovation of the complex.

Izzy Ashkenazy and Jonathan Agus, principals of Ashkenazy & Agus Ventures, are personal guarantors on the loans, according to court documents. They did not return a call to their office seeking comment by the deadline.

The group's Boca Raton office is based in one of the buildings being targeted in the **foreclosure**, 7100 W. Camino Real. The property sits on a 15-acre parcel on West Camino Real and Powerline Road.

Capmark has been marketing the loan on the property, according to an offering flier obtained by the Daily Business Review. There is no asking price listed on the flier, but it states the office complex was appraised at \$40 million as of June 2007. Today, real estate experts say they don't believe the loan would sell for anything close to that.

Adam Lubkin, president of Ibis Development Group, who works as a consultant and advises clients on note deals, said if he had to price the buildings today he would estimate the value at no more than \$19 million, based on a preliminary analysis of Capmark's offering flyer.

This year, the Palm Beach County appraiser's office assessed the property at about \$24.5 million all together.

Lubkin has worked as a consultant in real estate deals with Ashkenazy. He said the foreclosure may not necessarily be a sign that the venture group is in distress.

"Ashknazy & Augus is a very sophisticated real estate group, and I would be surprised if they didn't have a full handle on everything going on in this specific deal," Lubkin said. "Knowing them, this is probably a strategic plan on their part rather than a sign of their weakness."

Lubkin did not elaborate on what strategy he thinks the group is using but said if Ashkenazy found an opportunity to buy the note from Capmark at a discount, they probably would do it.

"They've been very successful for a very long time, and they are some of the brightest, shrewdest real estate guys in the business."

Thomas Godart, a broker with Boca Raton-based PMA Sales Group, who is familiar with the property and its owners, said ehe was surprised to learn the property was in foreclosure. But because Fountains is a class B office complex, it is understandable how it fell into foreclosure, he said.

"They took an old project, and they did a first-class job in renovating it," he said. "They spent at least a couple of million dollars there and added some great retail tenants. But it is difficult in today's world to hold on to tenants without severe rent concessions. If you are in class B suburban product, you are in a disadvantage."

The property is 79 percent leased, according to Capmark's flier.

Godart said he expects other types of class B properties to start falling into foreclosure for similar reasons by early next year.

This may be more of a unique case for now, he said, because of Capmark's bankruptcy filing, but he expected other lenders to push owners of commercial properties into foreclosure once the borrowers can't pay to rebalance the loan.

As owners of commercial properties, especially class B properties, continue to lose tenants or give them rent concessions to keep them in business, their cash flow will take a hit. As lenders realize the cash flow ratio to debt service does not meet their initial loan agreement requirements, they will start asking for borrowers to put down more money to cover the difference.

"I believe we are going to start seeing those more in 2010," he said. "This one may be more of an isolated case for now, because, keep in mind, Capmark is in bankruptcy, and their Wall Street investors are probably playing a game where they want to grab some good assets."

Jose Casal, a Holland & Knight attorney in Miami who represents Capmark in the lawsuit, declined to comment.

Polyana da Costa can be reached at (561) 820-2065.

ADVERTISEMENT
You Get the Judgment...

We'll Find the Bank Accounts.
Lone Eagle Investigation, Inc.
305.823.3345
Lic # A0002170

Most Popular Headlines | **Firms & Companies in this Article**

- [Seven South Florida attorneys punished for Bar violations](#)
- [Jury returns \\$91 million verdict against accounting giant BDO Seidman](#)
- [Partner fired by Greenberg Traurig over charges](#)
- [Miami Herald owner cancels Siffin land deal](#)
- [Fee-splitting lawyers' funds may go to library](#)

ADVERTISEMENT
Connect with DBR's reporters and editors on
facebook.
twitter

Follow DBR Law Editor Cathy Wilson
On Facebook: [cmwalm](#) On Twitter: [@cmwalm](#)

7300 W. Camino Real photo by Melanie Bell

[Subscribe to Daily Business Review](#)

[Print](#) [Share](#) [Email](#) [Reprints & Permissions](#) [Write to the Editor](#)



TOP JOBS
 Litigation Associate
 Silva Search
 Miami, Florida

LITIGATION ASSOCIATE
 Michael Lord & Company
 New York, New York

MORE JOBS
POST A JOB

ADVERTISEMENT

[Advertising](#) | [Products & Services](#) | [Announcements](#) | [Real Estate Marketplace](#) | [Directories](#) | [Events](#) | [Community Links](#)
[Contact Us](#) | [About Us](#) | [Subscribe](#) | [Terms & Conditions](#) | [Privacy](#) | [Site Directory](#)

the LAW.COM network

LAW.COM

Newswire
Special Reports
International News
Small Firms
Lists, Surveys & Rankings
Legal Blogs

ALM NATIONAL

The American Lawyer
The Am Law Litigation Daily
Corporate Counsel
Law Technology News
Minority Law Journal
The National Law Journal

ALM REGIONAL

Connecticut Law Tribune
Daily Business Review (FL)
Delaware Law Weekly
Daily Report (GA)
The Legal Intelligencer (PA)
New Jersey Law Journal
New York Law Journal
GC New York
New York Lawyer
The Recorder (CA)
Texas Lawyer

DIRECTORIES

ALM Experts
LegalTech® Directory
In-House Law Departments at the Top 500 Companies
New York's Women Leaders in the Law
Corporate Counsel: Best Lawyers® Annual Guides
The American Lawyer: Best Lawyers® Annual Guides
The National Law Journal Leadership Profiles

BOOKS & NEWSLETTERS

Best-Selling Books
Publication E-Alerts
Law Journal Newsletters
LawCatalog
Law Journal Press Online

RESEARCH

ALM Legal Intelligence
Court Reporters
MA 3000
Verdict Search
ALM Experts
Legal Dictionary
Smart Litigator

EVENTS & CONFERENCES

ALM Events
LegalTech®
Virtual LegalTech®
Virtual Events
Webinars & Online Events
Insight Information

REPRINTS

Reprints

ONLINE CLE

CLE Center

CAREER

Lawjobs

[About ALM](#) | [About Law.com](#) | [Customer Support](#) | [Reprints](#) | [Privacy Policy](#) | [Terms & Conditions](#)
Copyright 2011. ALM Media Properties, LLC. All rights reserved.

