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Worldcenter developer finally clears ethics hurdle

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The front-man for a \$20 billion, nine-block project near downtown Miami cleared a legal hurdle yesterday when he finally received a conflict of interest waiver from the Miami City Commission, eight months after elected officials agreed to become his company's partner in creating 12 million square feet of new construction over the next 20 years.

Nitin Motwani, managing director of Miami Worldcenter Group, could not be reached for comment at deadline. A few weeks prior to the vote, however, Motwani told *The Real Deal* that he would once again pursue a conflict of interest waiver, enabling him to sign a development agreement with the city of

Miami on behalf of Worldcenter's founders, Boca Raton-based developers Marc Roberts and Art Falcone. "It is something, we believe, the city needs to take action on," he said.

Prior to the waiver, Motwani was prevented by ethics regulations from signing a development agreement thanks to his affiliation with the Downtown Development Authority. The DDA is governed by a City Commission-appointed board that collected \$10 million in taxes last year from area property owners to encourage downtown economic development.

But Miami Worldcenter still has significant challenges ahead. In January, Miami Worldcenter defaulted on an \$88.7 million contract to buy seven acres from Africa-Israel.

"I think the city would never stand in the way of progress, especially in this day and age," said David Lombardi, owner of Wynwood-based Lombardi Properties. "[Miami officials] are dying to get some permit fees, so why stand in the way? But whether there is financing for such a project and whether there is a market is real question."

Jeff Morr, CEO of Majestic Properties, doubts there is a market for a new "city within a city" -- yet.

"There is no room for development of this kind. We don't need any more buildings," Morr said. "You can buy a brand new condo for less of the cost of construction." As for commercial real estate, "that marketplace is the toughest," Morr said. "Residential is recovering but commercial is going through a difficult time."

Motwani and Miami Worldcenter boosters, however, always emphasized that this project was long-term one that would stretch out for years. "The jury is still out," said Michael Cannon, managing director of Integra Realty Resources-AREEA/South Florida, regarding Miami Worldcenter's prospects, adding that "the property is not going anywhere."

Lombardi agreed that Miami Worldcenter has a shot for success if the developers can hang on. "I think Miami

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has great long term prospects," he said. "It is just a question of how many years. I think [full recovery] is north of five years, but closer to ten."

In November 2008, the Miami City Commission approved an overlay district for a 25-acre area in the blighted Park West neighborhood, bounded by NE Second Avenue, North Miami Avenue, NE 11th Street and NE Sixth Street. The overlay district encourages the construction of hotels, retail, convention centers, condos, apartments and schools as well as the creation of public plazas, at least one Lincoln Road-style pedestrian mall and urban parks. The commission also approved a development agreement with Miami Worldcenter which guaranteed the zoning for the next 20 years and obligated the developers and the city to defend each other in the event of litigation by a third party. At the time, Motwani claimed Miami Worldcenter either owned or controlled 80 percent of the parcels in that overlay district.

A month later Miami Worldcenter forged a partnership with California-based Centurion Properties for the construction of 450,000 square feet of retail and restaurant space, 1.3 million square feet of hotels and 800,000 square feet of parking.

But tough times brought setbacks. In January, Miami Worldcenter tried to use the apparent death of the \$1 billion Port of Miami tunnel as a reason to walk away from its \$12 million-plus-per-acre deal with Africa-Israel. The tunnel's creation was an important factor for the conversion of NE Seventh Avenue, now used by trucks to enter the Port of Miami, into a pedestrian-style mall.

Africa-Israel kept Miami Worldcenter's \$18 million deposit, and Motwani declined to comment on the deal.

The tunnel project has been revived, but ethics issues weren't resolved.

On the same day the City Commission gave Miami Worldcenter its official blessings, Kerry Rosenthal, chairman of the Miami-Dade Commission on Ethics, said that Motwani's DDA affiliation would block a deal. (The DDA also approved a resolution supporting the Miami Worldcenter deal in October 2008, although Motwani and his fellow board member/attorney, Neisen Kasdin, abstained from the vote.) Miami's ethics code forbids department heads and city board members from conducting business with the city unless they receive a waiver by a fourth-fifths majority vote of the Miami City Commission.

"If you are on a board you can't do business in the city... no matter what board you sit on," explained Robert Meyers, executive director of the Miami-Dade Commission on Ethics, a body that enforces ethics codes throughout Miami-Dade. Meyers suggested that Motwani get a conflict a waiver from the city, seek an appeal or resign from the DDA.

But Motwani and the Downtown Development Authority insisted resignation isn't necessary because there is no conflict of interest. "I serve on the DDA board at the behest of the DDA and the city, and it is a privilege and an honor to do so," Motwani said in a prepared statement sent to *The Real Deal*. "With that said, the ultimate decision that is reached will have no bearing on the status of the Miami Worldcenter Group's project, which continues forward as planned."

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Resignation may have also not cleared up the conflict, because the ethics code also forbids department heads and city board members from doing business with Miami's municipal government for two years after leaving office.

In January the commission was scheduled to issue conflict of interest waivers for Motwani and two other DDA board members, Jerome Hollo, son of developer Tibor Hollo, who is negotiating with the city to lease vacant property in the downtown area to the city of Miami as a park for \$1 a year, and Jay Solowsky, an attorney who wants to charge the city of Miami and the DDA \$275 an hour to defend both entities in a lawsuit that challenges the DDA's existence. But the conflict waiver resolutions were deferred. Motwani's conflict waiver was "withdrawn" in February, according to city records.

Commissioner Marc Sarnoff, whose district includes Park West, said Motwani should get a conflict waiver.

"I would not have a problem granting Nitin a waiver because Nitin has done a whole lot of good as a board member of the DDA," Motwani said. "All he needs to do is put up a Chinese wall and not engage in any activities for Worldcenter [at the DDA board]."

Commissioner Tomas Regalado, a mayoral candidate who has been critical of the DDA and its power to tax downtown's property 50 cents per \$1,000 of assessed property value, hinted he may vote against giving Motwani and Solowsky a waiver in an interview with the Miami Herald because it "doesn't look right."

But during yesterday's City Commission meeting Regalado voted to approve the waiver along with his four other colleagues without uttering a word.