

Kramer Levin Wins Dismissal in Lender Liability Dispute Over Multibillion-Dollar Texas Development

By Jane Wester

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U.S. District Judge Lewis Liman of the Southern District of New York on Thursday dismissed the remaining claims in a lender liability case involving a planned multibillion-dollar real estate development near Dallas, months after he reopened the case to allow the plaintiff developers to replead two of their claims for fraudulent transfer.

Liman also declined the plaintiffs' request that he transfer the case back to Georgia, where it originated as part of a bankruptcy proceeding in 2020.

The developers, represented by attorneys at Georgia firms Caplan Cobb and Stone & Baxter, had alleged that defendant Gamma Real Estate Capital leveraged an \$82 million bridge loan to seize control of the property.

In March 2022, Liman granted a motion to dismiss all claims from Gamma's attorneys at Kramer Levin Naftalis & Frankel, but in July, he altered his judgment to dismiss the fraudulent transfer claims without prejudice instead of with prejudice, allowing the plaintiffs to replead those claims.

The Kramer Levin team in August asked Liman to dismiss the remaining claims with prejudice, arguing that they were "grounded on the extraordinarily implausible allegation that the Property was worth \$565 million" in February 2019.

Kramer Levin partner Michael Dell argued that that valuation was unlikely because the developers chose to give it up instead of repaying a \$140 million debt, among other factors.

Liman agreed, finding that it was "utterly implausible" that the plaintiffs would have entered the deed-in-lieu agreement in February 2019 if they thought the \$565 million appraisal "was entitled any weight."

"Had the Wade Park properties been worth \$565 million on January 2, 2019, as Plaintiffs would have the Court infer, Plaintiffs would not have needed to enter the DIL Agreement at all. ... The only inference to be drawn is that in 2019, as in the over one year period prior, there was no buyer or lender who would value the property at \$565 million, or anywhere close," Liman wrote.

Liman described other options the plaintiffs might have pursued if "there was a market for the Wade Park properties at their alleged valuation."

"Again, the only plausible inference is that there was no market for the Wade Park properties in an amount unreasonably in excess of the debt owed to Defendants," Liman wrote. "Defendants took the deeds to the Wade Park properties because its value was sufficient—but not greater than necessary—to compensate Defendants for the amount that was outstanding from Plaintiffs and the additional loss of the time value of money."