



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Property Co. Wins £15M Ruling In Bidding War Spat

By **Alex Baldwin**

Law360, London (July 28, 2022, 8:53 PM BST) -- A London court has ruled that real estate sponsor Bugsby Property is entitled to £14.9 million (\$17.96 million) in damages for losing out on a bid to buy London's Olympia Exhibition Center after a key lender it was in talks with decided to finance the rival winning bidder.

In a lengthy judgment Wednesday, High Court Judge Robin Knowles held that Bugsby was entitled to damages for the "loss of a chance" to secure a key financier after Legal & General Group and its subsidiary LGIM Commercial Lending helped finance a consortium led by Yoo Capital — which ended up securing the property for £296 million — despite signing an exclusivity agreement with Bugsby.

L&G admitted to breaching the exclusivity agreement, but argued that its decision to arrange finance for Yoo made "no difference" to Bugsby's chances of securing the property. The lender maintained that Yoo would have won the bidding for Olympia even without its backing.

The sellers, Capital & Counties Properties PLC put the Olympia up for sale in late 2015, with the expectation that the purchaser would redevelop the property. Both Bugsby and Yoo competed in the bidding process to secure the rights to the property, with the contract eventually going to Yoo following investment from L&G.

Both parties disputed what the phrases "chance" and "loss of a chance" mean in the agreement, but Judge Knowles concluded that a loss of chance may constitute an "identifiable head of loss where the provision of the chance was the object of duty that has been breached" and that Bugsby's situation counted under that interpretation.

Judge Knowles held that both Bugsby and Yoo were "desirable" buyers for Olympia, but considered whether the seller would have been prepared to sell to Bugsby, and whether it would have been able to finance the bid and development.

Judge Knowles ruled that there was a "substantial chance" that CapCo would have been willing to sell to Bugsby and a 40% chance that it would have gone with Bugsby if Yoo had delayed.

While both parties admit that Bugsby would have exited the project at some point if it had won the bid, L&G argued that it would have backed out in February 2020 after HNA Group, another lender that worked with Bugsby on the bid, ran into "major difficulties" and required restructuring.

However, Judge Knowles was not convinced that if HNA had sold its position in the project, Bugsby would have needed to restructure, opting instead for Bugsby's estimated exit date of April 2024.

In calculating the damages for "loss of a chance," Judge Knowles considered a potential investment management fee, operating return and redevelopment return, among other hypothetical sums that Bugsby could have secured if it had prevailed. Judge Knowles arrived at a final figure of £14.98 million.

Representatives for both parties did not immediately respond to requests for comment.

Bugsby Property LLC is represented by Andrew Twigger QC, Thomas Munby QC and Duncan McCombe of Maitland Chambers, instructed by Signature Litigation LLP.

LGIM and Legal & General Assurance Society Ltd. is represented by Orlando Gledhill QC, Mehdi Baiou and KV Krishnaprasad of One Essex Court, instructed by Clyde & Co LLP.

The case is Bugsby Property LLC v LGIM Commercial Lending Ltd & Anor [2022], case number CL-

2019-000515, in the England and Wales High Court.

--Editing by Alyssa Miller.

All Content © 2003-2022, Portfolio Media, Inc.