

Oz's finances shown in opposite extremes

As promoters of Wheatfield park talk billions, unpaid contractor's lawyer sees empty pockets

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WHEATFIELD — An attorney who sued the promoters of the proposed Wizard of Oz theme park on behalf of an unpaid contractor said this week that as far as he can tell, the man behind the curtain has empty pockets.

Despite that, the town's lame-duck supervisor, Timothy E. Demler, asserted that Oz Central, as the company is known, is about to come up with \$3 billion in private investment and an additional \$1 billion in bank loans to build the giant project. Color Marc W. Brown skeptical.

He's an attorney with the Phillips Lytle firm who has subpoenaed Oz Central's bank records in an effort to find enough cash to pay court judgments against the company totaling \$105,000 on behalf of a local engineering firm.

"We are entitled to receive any information about what their financial situation is," said Brown, who represents Nussbaumer & Clarke, a company that Oz hired to perform a traffic study.

The verdict: Oz doesn't seem to have enough to pay that judgment, never mind \$4 billion.

Oz Chief Executive Officer Richard A. Burch acknowledged as much in a June 15 court affidavit filed after Oz paid Nussbaumer & Clarke \$400, "which was what Oz could afford to remit at that time, as Oz is an entity that has no cash and is otherwise destitute."

In September 2008, Nussbaumer & Clarke won a judgment against Oz for \$99,490 in unpaid bills for the study. That hasn't been paid.

State Supreme Court Justice John M. Curran also ordered Oz to pay the contractor's legal fees and court costs.

Burch, who did not return calls this week, sought to pay the judgment in installments. Brown said that given Oz's track record, he refused.

Another Buffalo engineering firm, URS Corp., won a \$147,143 judgment against Oz from State Supreme Court Justice Richard C. Kloch Sr. last December. URS executives did not return calls this week, but there was nothing in the court file to indicate that the money was paid.

According to court papers, Oz is being represented by former U. S. Attorney Michael A. Battle, who is now practicing law in Washington. He also did not return calls seeking comment.

Demler said he still believes in Oz Central's project, as he has for the last five years.

"I think it's more close than [critics] know," Demler said. "I'm pretty optimistic."

He said three-quarters of the \$4 billion cost of the plan would come from private investors and the rest from banks.

Asked how a destitute company could hope to receive \$1 billion in bank loans during a credit crunch, Demler answered, "Because they got three-quarters of it privately."

Brown said Burch did not say anything about having that kind of money during his deposition. "Anything that is in their hands should be recoupable [for the creditors]," the attorney said.

Supervisor-elect Robert B. Cliffe said he met with Burch and his associates before the election, but not since.

"It's a massive project. It's the kind of project Western New York could use," Cliffe said. "If and when it breaks, we'll be ready. They seem to be good people."

He added, "If they need the town's assistance on anything the town can give them without hurting taxpayers, we'll be willing to do that."

Demler asserted that the state Department of Transportation has agreed verbally to construct an extension of the LaSalle Expressway over Williams Road to the park site.

No, it hasn't, said DOT spokeswoman Susan Surdej. "We haven't discussed that in quite a while," she said. "It's not on our project list."

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