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Retail

Lanier, Miller fight over right to buy G'town mall

Premium content from Washington Business Journal by Erin Killian , Staff Reporter

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Two high-profile retail developers are locked in a \$200 million court battle over the right to buy the Shops at Georgetown Park.

Herb Miller of Western Development, who co-developed the mall in the early 1980s, holds the right of first offer, which he retained when he sold his stake in the mall in 1985. Essentially, that means when the current owner finds a buyer and has a contract signed, Miller has the right to buy it at the price named in the contract. If he chooses not to, the deal continues with the buyer named in the contract.

Since 1997, Anthony Lanier of EastBanc has said publicly he'd like to buy the mall. In 1998, Lanier and Miller signed a deal in which Miller agreed that he would not exercise his right and would instead help Lanier buy the property in exchange for a fee. The original deal was updated in 2001.

The Shops at Georgetown Park's current owner, Boston-based AEW Capital Management, has stated on its Web site that it intends to sell the 608,000-square-foot mall.

In March, Miller sent Lanier a letter saying he and Western Development planned to exercise the right of first offer for "our own account and benefit." Lanier then sued in the Superior Court, claiming Miller backed out of their agreement.

Lanier amended the complaint in May, asking for \$100 million in compensatory damages and \$100 million in punitive damages if the mall is sold without Eastbanc's input.

The judge ruled in favor of Miller in June, agreeing that the statute of limitations on enforcing the 2001 document had expired. Lanier has asked the court to reconsider.

Retail sources say New York-based Vornado Realty Trust also is interested in buying the mall. Representatives of the real estate investment trust did not return calls.

"To the best of my knowledge, they haven't moved forward," Lanier says. "It's a black box, and I'm standing outside."

Miller's attorney, S. Scott Morrison of the law firm Katten Muchin Rosenman, agrees.

"If the seller gets the property under contract, they have to tender the terms of it to Herb," Morrison says. "To our knowledge that hasn't happened yet."

The Shops at Georgetown Park has a 2007 taxable value of \$42.8 million, according to D.C. tax records. The tenants include several popular street-front stores such as Anthropologie, H&M and J.Crew. The interior shops, however, have not attracted high foot traffic.

The mall is managed by Urban Retail Properties, which did not return calls.

Lanier has redeveloped thousands of square feet of retail space in Georgetown. Miller developed projects such as the Portals, Potomac Mills, Washington Harbour and Gallery Place in D.C.