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Shock ruling could throw 200 Amsterdam loan into default

Value drop would violate terms of developers SJP and Mitsui Fudosan's financing

TRD NEW YORK
By [Rich Bockmann](#)

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The construction loan for 200 Amsterdam Avenue could be in danger of default after a judge ordered the developers to deconstruct part of the building. (Credit: iStock)

The surprising court **ruling** requiring developers to deconstruct 20-some floors of a nearly completed Upper West Side condo building could put the project's financing in jeopardy.

Sumitomo Mitsui Trust Bank, the Japanese lender that provided developers **SJP Properties** and Mitsui Fudosan America with a \$426 million construction loan for 200 Amsterdam Avenue, might now have grounds to claim that the loan is in default.

“There are any number of ways to call a default on this loan if they wanted to,” Joshua Stein, a commercial real estate attorney who reviewed the financing agreement at the request of The Real Deal. (Stein is not connected to the project.)

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Late last week, state Supreme Court Justice W. Franc Perry ruled that SJP and Mitsui Fudosan should not have been granted permits for their project — which towers over neighboring properties — based on a 39-sided zoning lot that took advantage of nearby air rights.

The developers argue that the judge's ruling **contradicted previous decisions** by the Department of Buildings and the Board of Standards and Appeals, and said they will appeal.

A representative for Mitsui Fudsoan said the company is in position to keep the project financed.

“Mitsui Fudosan America has more than sufficient financial resources to complete this project,” spokesperson Montieth Illingworth said via email.

A representative for Sumitomo Mitsui Trust Bank could not be reached.

Still, the developers’ construction loan contains a number of requirements that the lender could use to claim the loan is in default, Stein said.

The nearly 200-page loan agreement, for example, requires the 112-unit project to be in compliance with all legal and zoning requirements.

But Stein said the more significant detail is a requirement that the project stay within a loan-to-value ratio of 65 percent. That means that for the \$426 million loan, the appraised value of the project could go no lower than \$655 million.

The project has a current projected sellout of \$855.8 million, according to the state attorney general’s office. But the developer of the 52-story project has sold units on the upper floors that might have to be dismantled if the judge’s decision stands.

Stein said that if the lender obtained an updated appraisal of the development based on the loss of the top 20 floors, where the most expensive units are located, it could put the loan into default.

“They’d have to pay down that loan a sufficient amount in order to bring it into compliance,” he said, adding a paydown or a deposit of additional borrower funds to cover construction costs

might also be needed to bring the construction budget into compliance.

Stein said he thought it unlikely that Sumitomo Mitsui would move any time soon to argue the loan is in default, as the bank probably would not want to take the project away from the developers best qualified to get the project on track.

“I doubt the lender would want to call a default so quickly,” he said. “But they could.”

The loan document lists a project completion date and loan maturity date of March 31, 2021.

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