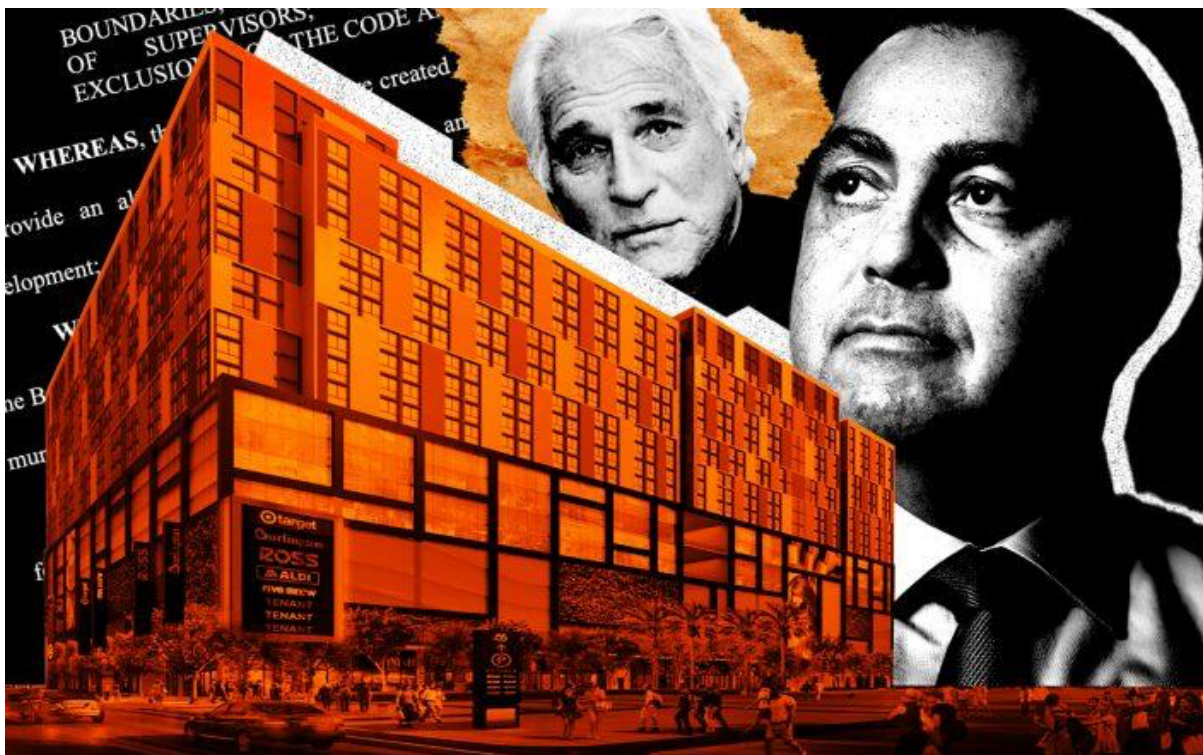


Don Peebles on the hook for \$800K in legal fees tied to Overtown lawsuit

Payment not due immediately, depends on outcome of ongoing appeal

By Lidia Dinkova



From left: Michael Swerdlow and Don Peebles along with a rendering of Block 55 in Miami's Overtown neighborhood (The Peebles Corporation, Swerdlow Group, iStock/Photo Illustration by Steven Dilakian for The Real Deal)

Don Peebles is on the hook for \$800,000 for Michael Swerdlow's legal fees and costs tied to a lawsuit over the development of Block 55 in Miami's Overtown neighborhood.

Miami-Dade Circuit Judge Michael Hanzman on Thursday ordered Peebles' entity to pay the fees, marking the latest loss for Peebles in the yearslong

litigation. He had alleged that Michael Swerdlow and city officials secretly plotted and maneuvered to dupe Peebles out of developing the 3.4-acre property at 249 Northwest Sixth Street in Miami.

Peebles originally had won a Miami Community Redevelopment Agency solicitation to build out Block 55 in 2013, but the CRA awarded Swerdlow the development rights in 2018.

In 2020, Peebles' Overtown Gateway Partners entity – which is also tied to real estate investor and Peebles' joint venture partner, Barron Channer – **sued** Swerdlow, his Downtown Retail Associates affiliate and his project partner, Alben Duffie. The CRA, two of its former executive directors, and its ex-board chairman were not named defendants, although the suit outlined allegations that they shifted the development rights away from Peebles and to Swerdlow.

Swerdlow is building a **578-unit affordable** housing project on the site, with 85 percent of the units for renters 62 and older. The project will include 251,000 square feet of retail anchored by a Target and Aldi, as well as restaurants and a Sawyer's Walk public promenade.

The recent order tied to legal fees “speaks for itself,” said Swerdlow, who was represented by Kluger Kaplan attorneys led by Alan Kluger.

“He sued us for \$160 million, and we now have a judgment against him for \$800,000,” he said. “Maybe there is a cautionary tale in that, for people who are thinking of suing people for nothing.”

Peebles is appealing the lawsuit claims he lost before the legal fees order, and does not have to immediately pay the legal fees until his appeal runs its course, according to the order.

Glen Waldman, the attorney for Peebles' affiliates, said this is an unusual provision, but a beneficial one for his client.

“We strongly believe we are going to win on appeal,” said Waldman, of Armstrong Teasdale in Miami. “The appeal will probably work out before year’s end.”

Swerdlow initially had asked for \$1.1 million in attorney fees and \$190,000 in costs, while Peebles countered, offering \$650,000 for fees and about \$50,000 for costs, Waldman said.

An April 6 fee hearing was curtailed when Peebles and Swerdlow settled on \$750,000 in attorney fees and \$50,000 in costs, according to the order.

Peebles' lawsuit by Overtown Gateway claimed that former CRA board chair Keon Hardemon, who now is a Miami-Dade County commissioner, favored Swerdlow and directed CRA staff to delay vital approvals that Peebles' Overtown Gateway needed to proceed. Peebles and Channer also were pressured to strike a deal with Swerdlow to sell him their development rights, the suit says.

In one example, ex-CRA Executive Director Cornelius Shiver “strongly encouraged” Channer to enter a deal with Swerdlow, according to the complaint. In another, Shiver told Channer Peebles' Overtown Gateway would have “issues coming to agreements.”

Feeling strong-armed and pushed into a corner, Peebles' Overtown Gateway entered an agreement to sell its development rights to Swerdlow's Downtown Retail for \$15 million. The deal also included another Overtown

redevelopment site, Block 45 at 152 Northwest Eighth Street.

Eventually, Swerdlow's Downtown Retail did not execute on the agreement, partly arguing that it needed more time for due diligence, and the city did not give Peebles' Overtown Gateway necessary approvals, according to the complaint. And Block 45 later reverted back to Miami-Dade County under a separate agreement with the city.

The first blow to Peebles' lawsuit came in September 2020 when he lost a \$90 million claim, followed by the loss of a **\$15 million** claim in August. Shortly after, he dropped his remaining three claims for **\$160 million**, allowing him to appeal his case to a higher court.

Following the \$15 million claim loss, Hardemon told *The Real Deal* that Peebles simply "failed to produce" the necessary project filings to the CRA, and was trying to blame others and injure Hardemon's reputation.

Construction of the retail and parking portions of Swerdlow's project are expected to be completed in December 2023. The apartments are expected to be finished in July 2024.