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Last Updated: Sep 26th, 2012 - 16:36:47



Controversy grows over school board's Bay Tech purchase

By Geoff Belcher
Sep 26, 2012, 12:01

By most accounts, the Bay-Waveland School District got a pretty good deal last month when it bought the old Bay Tech building in Old Town for use as its new central office – but the way it was sold and the fact that the previous owners apparently made a quick \$255,000 profit on the sale is generating some controversy among local real estate agents.

In August, the board purchased the Bay Tech property and 1.6 acres of land, located on Second Street, for \$580,000 – well under its assessed value – from LNG Investments. However, county records show that LNG had owned the property for less than two months before the sale. In fact, a Sea Coast Echo report on the transaction listed the owner as Magnolia Properties LLC because county records didn't yet reflect Magnolia's sale of the property to LNG in June.

There are two major components to the controversy.

The first is that, less than two months before selling the building to the BWSD, LNG Investments bought the property from Magnolia Group LLC and Western Union Bank on a "short sale." A short sale is a real estate term that basically means the owner of the property – in this case Magnolia Group, based in Shorewood, Ill. – was losing money and needed a quick sale. Under an agreement with the financial institution that held the mortgage, the purchaser – LNG – was able to buy the property for much less than its appraised value. According to shortsale.com, "The short sale has advantages for both parties and as it allows borrowers to avoid foreclosure, it also helps the lender dodge the costs associated with the foreclosure. The borrower also avoids earning a negative credit report at the same time."

When Magnolia Group offered it for sale through O'Dwyer Realty of Bay St. Louis, the asking price was \$795,000. According to Multiple Listing Service documents, the property was on the market 981 days before LNG closed on it, paying \$325,000. Then in less than two months, LNG sold it to BWSD for \$580,000, a \$255,000 profit.

The second component to the controversy is that Mary Bunch, O'Dwyer Realty's listing agent for the property, abruptly quit O'Dwyer just before the sale to LNG and went to work for John McDonald Realty, and the fact that one of the partners in LNG is Bunch's son, Lloyd Nicaud.

In documents on file with the Mississippi Secretary of State's Office, Nicaud is listed as LNG's vice-president. Gerald W. Rigby is the company president. Another document on file with the secretary of state's office lists the Macmillan Group LLC as LNG's "manager."

Nicaud is listed as general partner and registered agent for the Macmillan Group, and Bunch is listed as Macmillan's manager.

LNG formed in August 2010. The secretary of state's office revoked its legality in December 2011 because the company failed to file an annual report, but LNG was officially reinstated on April 3, 2012. The MLS documents indicate LNG began trying to purchase the Bay Tech building on April 1, 2012.

As of Sept. 26, the secretary of state's office has notified both LNG and the Macmillan group of the intent to dissolve due to the lack of annual reports.

Adding to the controversy is the fact that the Bay-Waveland district had initially planned to build an entirely new structure to serve as its central office and had paid more than \$90,000 to architectural firm Taylor Guild Hardy for the design. The school board followed that phase of planning for nearly two years before deciding earlier this year it would be more cost-efficient to purchase an existing structure.

"It gets very convoluted," Avra O'Dwyer, owner of O'Dwyer Realty, said Monday.

Even though her firm represented Magnolia Group and received a commission in the sale from Magnolia to LNG, she said the short-sale purchase and quick-flip of the property to the BWSD, netting a huge profit "is a travesty."

"I've been in this business 30-something years and I've never heard of anything like this," O'Dwyer said, "taking advantage of a school system. It's such a small community. ... \$255,000 is a lot of money."

O'Dwyer said at the very least, Bunch "should have fully disclosed that she was a buyer and that a family member was a buyer.

"I had no knowledge. I was told that it was a group of investors involved with Jerry Rigby, which, he is one of the buyers. We do have license law with the Mississippi Real Estate Commission. We have issues we have to deal with and abide by agency requirements and full disclosure in a real estate transaction if an agent is a buyer or any family member is a buyer."

O'Dwyer said she would be filing a complaint with the real estate commission this week.

Bunch said Tuesday that O'Dwyer is off-base with her criticisms.

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"I didn't have anything to do with that sale" from LNG to the school board, she said. "I was not the broker. I was not the agent. I had nothing to do with it. I did not receive a commission. I did not know that the school board was buying it.

"What this stems from is my departure from O'Dwyer Realty, LLC."

Bunch described the growing controversy as unnecessary and unfounded "havoc and chaos."

"The people that bought the building (LNG) are all very good human beings and good citizens of Hancock County. These are businessmen and what they did – they didn't go to the school board, from what I understand, the school board came to them. ... These allegations are baseless. These guys bought that building. They re-sold that building. That's what they do.

"These guys tried to get a grocery store there. They had developers come in and wanted to put cottages in.

"They talked to privately-held grocery store chains from all over the United States. (The stores) just didn't want to come to that particular building.

"This was the most expeditious as well as the most economically feasible thing to do. ... What options did the school board have, basically? What would it have cost them to recreate the building that they needed? Where were they going to go? What were they going to do?"

Bunch said her abrupt departure from O'Dwyer Realty and move to John McDonald Realty had nothing to do with the sale of the Bay Tech building – she was just ready to move on.

Ronnie Artigues, attorney for the Bay-Waveland School District, said Monday that the controversy is specious and over-blown, since the apparent presumption is that the district could have purchased the Bay Tech Building at the short-sale price the same way LNG did.

"The school district is not like a private buyer," Artigues said. "We cannot just arbitrarily pay what we want. ... It's a flawed presumption that we could have gotten the property for the same price which they had gotten it."

Artigues said whatever LNG paid for the property when it purchased it was, first of all, not publicized; and second of all, irrelevant.

Artigues likened the process to the district's recent purchase of two properties near Waveland Elementary to make room for road expansion there.

"We had to offer them the appraised value," he said. "It's no different, it doesn't matter who the owner is."

Mississippi is considered a non-disclosure state. Property owners are not required to reveal what they themselves paid for the property to a prospective new buyer.

The \$325,000 figure did not become public until Multiple Listing Service (MLS), a nation-wide real estate listing, added it to the Bay Tech description page.

"We got it for the lowest possible number based on the appraisal," Artigues said, adding that the district was quite pleased with the price, at the time of the sale.

According to the Hancock County Tax Assessor/Collector's office, the assessed value last year of all three parcels included in the sale was \$727,002. When Magnolia Group owned the property, it had initially offered it for sale at \$1.2 million, before dropping the asking price to \$795,000; and later, according to Bunch, to \$699,000.

For a 29,000-square-foot commercial building in downtown Bay St. Louis, just a block from the old central office, gutted and ready to be renovated, "\$580,000 was a bargain," Artigues said. "Besides," he added, "it will be audited. Everything we do is audited, every year."

FEMA funds were not used to purchase the building, Artigues said.

"The only thing FEMA would do is reimburse for the renovations," he said.

Old Town for use as its new central office – but the way it was sold and the fact that the

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