

# Property developer Westbank faces lawsuits over sprawling Mirvish Village redevelopment project

SHANE DINGMAN > REAL ESTATE REPORTER

RACHELLE YOUNGLAI > REAL ESTATE REPORTER

PUBLISHED YESTERDAY



Very little signage denotes the Mirvish Village development under construction in Toronto at Bloor and Bathurst, the former site of Honest Ed's discount store on Nov. 6.

MELISSA TAIT/THE GLOBE AND MAIL

High-profile Canadian real estate developer Westbank Corp. is being sued by four construction companies for more than \$25-million in unpaid work at the large Mirvish Village rental apartment project in Toronto.

According to a statement of claim by EllisDon – one of the country's leading construction management companies – payment delinquencies by Westbank began

in 2022 and continued into 2023. EllisDon is seeking repayment of \$8.7-million and has vacated the site, but the company declined to comment, saying the matter is before the courts.

In a statement, Westbank said the payment issues stem from a disruption from taking over as its own construction manager on the site, and said that construction is “progressing” as it plans to finish the residential portion of the Mirvish project in 2024.

“As we are sure you are aware, these are challenging times for the industry as a whole. Mirvish Village, like nearly every other project that was under construction during the pandemic, has faced inevitable delays and cost challenges,” said Ian Duke, who leads the acquisitions and development teams at Westbank.

There are several smaller subtrades who launched legal claims, alleging they are owed money. Global Precast, a Toronto-area concrete company, filed a claim in September for \$1.2-million. Flat Iron Building Group Inc., which specializes in metal cladding, also filed claim for \$5.4-million after it says Westbank offered “numerous assurances that payments would be made” starting in July, 2023. Flat Iron claims it performed \$28-million worth of work on four buildings before leaving the site on Aug. 8 with some elements unfinished.

Neither company responded to requests for comment.

The largest claim is from BV Glazing Systems Ltd., which was contracted in 2019 to install the glass windows and curtain walls for all the buildings at the site. The initial contract was for \$24.7-million, but its claim cites multiple delays in approving drawings and missed timelines for installation that added more than \$3-million in extra costs. Despite not getting paid on time, it said work continued until July, 2023, at which point BV said it was owed \$9.4-million. BV’s parent company, Exchange Income Corporation, declined to comment.

According to Mr. Duke, Westbank is in the process of settling claims with BV Glazing, Flat Iron and Global Precast, though not all the money those companies are demanding has been paid and it is unclear whether they are back at work on the site.

“From our perspective we’re on track,” Mr. Duke said. “We are still working with them, the relationship’s not over.”

High interest rates and the spike in construction expenses have made it increasingly difficult for real estate developers to operate. Contractors are increasingly suing builders for missed payments. And a luxury condo project in Toronto called The One was recently taken over by a court-appointed receiver after the developer defaulted on loan payments.

These problems have so far been confined to developers that are either inexperienced or do not have enough capital to manage contingencies. A dispute with a company with the size and track record of Westbank could shake the entire industry, according to experts.

Westbank is one of the country’s most prominent builders, with more than 16 ambitious high-rise projects under way in Vancouver, Seattle, San Jose, Calif., and Toronto. The buildings add up to billions of dollars in development work; thousands of housing units; and have employed some of the world’s leading architecture talents, such as Copenhagen’s Bjarke Ingels Group, Chicago’s Studio Gang and Tokyo’s Kengo Kuma & Associates.

Westbank paid \$69-million in 2013 to acquire the Mirvish lands at Bloor and Bathurst, the former site of the colourfully thrifty Honest Ed’s department store. After years of wrangling with Toronto city planners, Westbank began construction in 2018 on a five-building residential project that will host 890 rental apartments – a mix of market rate and affordable units – as well as retail spaces.

According to public records, the site appears well capitalized. In 2019, Westbank took out a \$362.9-million construction loan from the Bank of Montreal. In 2020, the project received a \$200-million commitment for low-cost loans from the Canadian Mortgage and Housing Corp.’s Rental Construction Financing Initiative. The \$25-billion RCFI fund has been expanded by the federal government since 2016 to spur the building of rental apartments.

It’s not clear how much interest Westbank is paying on those loans. The BMO loan lists a rate of 10 per cent per annum, but in practice that figure could be lower:

Mortgage documents connected to title records in Ontario often include a higher base rate than is ultimately negotiated between lender and borrower. BMO declined to comment.

The CMHC declined to comment on any specific loans under the RCFI program, but said in a statement that “interest rates are fixed early on in the construction process and are typically close to the 10-year Government of Canada bond rate at the time of loan funding.” In most of 2020, the 10-year bond rate was less than 1 per cent.

All four companies with outstanding legal action attempted to secure their claims by registering construction liens on the land title of the Mirvish project. But liens are a legal tool that can complicate a property owner’s attempts to refinance or sell a property.

Despite the mounting demands, Westbank has been able to keep the land title to the Mirvish property unencumbered through court applications to vacate the liens placed by the construction companies; to do so Westbank obtained court approval to transfer the liens to separate construction bonds or other credit facilities.

However, the underlying civil court claims for repayment remain in place.

Social media and real estate discussion websites have been filled with speculation about the status of Westbank’s project in recent days, concerns that Mr. Duke swatted away on Monday.

“With regards to the integrity of our company and success of our developments – the malicious rumors circulating online are meritless,” he wrote. “We would not typically address unfounded rumours from anonymous sources; however, these rumours have unfortunately been a distraction.”

## **Sign up for the Top Business Headlines: Morning Edition Newsletter**

Stay in the know with the day’s most important breaking business news.

**REGISTER TO SIGN UP**

Follow Shane Dingman on Twitter: [@shanedingman](https://twitter.com/shanedingman)

Follow Rachelle Younglai on Twitter: [@rachyounglai](https://twitter.com/rachyounglai)

[Report an error](#)

[Editorial code of conduct](#)

