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Afshin Ghazi won't back down in fight to finish EpiCentre

Deal or no deal?

Charlotte Business Journal - by Ashley M. London and Susan Stabley Staff writers



photo NANCY PIERCE

Afshin Ghazi is always ready to negotiate.

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EpiCentre is a career-defining project for developer Afshin Ghazi.

The \$200 million mix of shops, restaurants and nightclubs in the heart of uptown was a bold stroke for a man best known for suburban retail centers. It took vision and an appetite for risk.

It is also a tangle of lawsuits, missed deadlines and unpaid bills. Hardball negotiating tactics have left an uncertain future for the condo tower expected to be a core part of EpiCentre's appeal.

And even city and county officials can't quite figure out why Ghazi stalled for months on coming to terms with them on building-code issues.

Indeed, EpiCentre defines Ghazi's career.

Over 14 years in commercial real estate here he's had a string of successes, building retail centers on sites charitably described as problematic. He has a gift for developing the right project at the right time.

But on the march to the big leagues in development — urban mixed-use projects — he's also seen business partnerships unravel and been a part of long-running disputes that landed in court. One legal fight with a contractor over unpaid bills at a Mooresville lakefront condo project went all the way to the N.C. Supreme Court.

He's sued numerous tenants and in the past year confidentially settled three lawsuits: one with a broker over unpaid commissions and another with real estate developer **Taubman Centers** over back rent related to a failed Norfolk, Va., restaurant.

Last week, Ghazi settled a long-running fight with contractor Clayco Inc. over a \$71.5 million claim in a confidential deal.

And now, with EpiCentre, Ghazi finds himself back in a court fight and back in the spotlight.

"I have an atypical style because I am looking at projects that not everyone is looking at," says Ghazi during an interview this week at his office in a former SouthPark bed and breakfast. "I'm always looking for the angle or the way to do something that somebody else may not have thought of."

The start of something

Take the site that is now home to EpiCentre, for example.

Spectrum Properties had worked on development strategies for an entertainment center on the former Charlotte Convention Center property for a year. And finally won city and county incentives for the project in mid-2004 when Ghazi joined the team to help with leasing.

Six months later, Spectrum pulled the plug. Ghazi describes Spectrum executives as "great partners," but it was Ghazi who ended up buying the site from the city. "They simply got to the point in the project where it was deviating from a project type they were comfortable with. The risk level exceeded their tolerance."

From that experience Ghazi decided he would take the lead in all his future projects. "A wise man once told me there can only be one chef in the kitchen," he says. "The most efficient form of government is a dictatorship, so to make decisions quickly and confidently you have to have faith in your partners and sometimes you have to give and sometimes you get."

Still, Ghazi was taking a marked leap into a market that no other prominent Queen City developer would touch. Even some of the nation's mixed-use pioneers — Taubman was one — walked away from the convention center site, claiming it wouldn't work without massive government subsidies.

Now that EpiCentre's first phases are open, with nightclubs such as Whisky River and Suite drawing large crowds, Ghazi says it's obvious his vision and expertise have been vindicated.

But the project, which covers an area bounded by East Fourth, South College and East Trade streets and Charlotte's light-rail line, is far from complete, and Ghazi's legal battles over some aspects of the project are just starting.

The local franchisee of a sandwich chain sued a Ghazi affiliate in April for failing to deliver its space in the center on time. Rising Roll franchisee Riz Above Inc. claims Ghazi won't return its

\$11,500 lease deposit. The company had expected to move into its EpiCentre space two years ago. Riz Above asked the lease be terminated more than a year ago.

Kenneth Raynor, attorney for Riz Above, says the Ghazi company, Pacific Avenue LLC, claimed the delay stemmed from the building of a retaining wall between EpiCentre and the light-rail line. “Their explanation did not hold water,” he says.

Pacific Avenue is expected to file a response by Aug. 6. “That will give us some indication of where they stand,” Raynor says.

The legal battle between Ghazi and Flaherty & Collins, the Indianapolis-based developer of the proposed 210 Trade condo tower at EpiCentre, also doesn’t appear headed to quick resolution.

The core issue of their dispute is how the project’s various elements meet — or don’t meet — code state law. For now, the complex is in breach of building codes because of a horizontal “air rights” property line that divides the condo tower from the commercial base.

Flaherty & Collins claims it can’t go forward until Ghazi completes an agreement that shows ownership. The company’s suit against Ghazi’s Pacific Avenue is seeking up to \$70 million in damages because it can’t go forward with the tower. In a suit against Flaherty & Collins, Ghazi is seeking \$92 million in damages. (See sidebar at left.)

A lawyer for the developers of 210 Trade says Ghazi has repeatedly attempted to renegotiate agreements. “Every time an issue arises that needs to be resolved, Pacific Avenue wants to go back and require you to do something else that was not part of the original deal; or give up your rights that were a part of the original deal,” says Flaherty & Collins’s attorney Lee Spinks, a partner at the Charlotte office of Poyner & Spruill.

“We had all the financing in place in February when we had all the documents,” he adds. “We had it complete in May when Ghazi refused to sign the documents necessary to close.”

Ghazi declines to comment on what happens next with the lawsuit or how EpiCentre could be impacted by the dispute. Spinks says his client has every intention of completing the tower. Contracts with condo buyers can be extended until April 2011, but the court issues must be resolved in time for construction to restart early next year.

As the developers squabble, contractors and vendors on the project have filed liens to get paid for more than \$13 million in work.

Ghazi won’t discuss the legal battles, but did agree to talk about his general business philosophy. “When you have a deal, you have a deal. I can’t say I’ve ever misled anyone. If I don’t know the answer it might appear to be misleading, but I don’t know where that is going. I try to negotiate a fair deal. I’ve been around businessmen who feel like the only way they win is if everybody else loses. That’s not the way I am.”

St. Louis project up the river

Ghazi's reach into large-scale development, however, continues to be trailed by disputes.

In September 2005, he was added as a development partner to the 17-acre, \$290 million Bottle District redevelopment project in St. Louis.

Longtime St. Louis businessman and land owner Dan McGuire envisioned an entertainment district, shops, offices and residences on seven blocks north of the city's downtown.

Also involved was Clayco, headquartered in St. Louis.

McGuire says Ghazi cold-called him, expressing interest in bringing in national retailers. But within a short time, Ghazi took over as lead developer, inked a \$17 million contract to acquire McGuire's land and expanded the project's original scope.

"He wanted to buy the entire project. He said I wasn't capable of doing it and he's a big-shot developer," McGuire says.

A series of announcements followed that raised the project's status.

By May 2006, Ghazi said he secured leases for 75% of the project's 330,000-square-foot of retail, with Charlotte-based Bar Management Group on tap to fill seven to 10 entertainment and bar venues. **Starwood Hotels & Resorts Worldwide Inc.** signed on to contribute a 150-room Aloft hotel.

By mid-2006, Ghazi submitted new plans that more than doubled the development's size and boosted its cost to \$647 million. At full build-out, the project would have boasted more than 1 million square feet of offices. A mix of more than 2,000 apartments and condos was spun off into a multi-tower residential and office development called Gateway Village.

The first phase of shops, restaurants, office space and 250 apartments was slated for delivery by the end of 2008 with a condo tower expected to be completed by the end of 2010.

In September 2006, however, Ghazi was out.

He told the *St. Louis Business Journal* that he tried to extend his options to buy the land while negotiating with the city for a larger tax-increment financing deal. Ghazi wanted a larger subsidy because the project had increased in size.

But McGuire says he simply refused to give Ghazi more time.

"I gave extension after extension and couldn't wait any longer," McGuire says.

McGuire secured a special tax district from the city that would have given the project a \$53.1 million subsidy, and he cleared the site and prepped it for development.

“I spent almost \$1 million waiting for Ghazi to get off his butt and do something and it never happened,” McGuire says. “He never showed up at the altar.”

Ghazi says the St. Louis deal is where he learned a valuable lesson — knowing when to walk away.

“There are certain things that I think in business you have to be able to do, which is take risk, but I also think you are not a wise businessman if you take uncalculated risk without multiple exit strategies,” he says. “I always look at a deal from the standpoint of how do I start, how do I make all this money, how much is on the line, what’s the worst-case scenario and how do I get out of this thing?”

Otherwise, there is no point in going forward, he says.

“One of my rules is, if it is a fight to get something done, I’d just as soon go skiing. If we are not welcome or if the project is not wanted, I am not interested in pressing the issue,” Ghazi adds. “I’d just as soon go to a market where we are wanted.”

About the St. Louis project, he says: “This is a deal where the rug was pulled out from under us and we were not able to move forward.”

But McGuire says Ghazi was the one who walked away. “All he had to do was get his funding and get started.”

Milwaukee brewing

Ghazi has one other large development in the works.

Called Catalyst, the Milwaukee, Wisc., project mirrors EpiCentre’s mix of clubs, bars and stores with residential units and office space.

In late 2005, Ghazi responded to the city’s request for proposals for a long-vacant parcel in a key downtown location.

The site’s sole bidder, he was awarded the deal the following spring.

The city has offered the land for \$1 and is working on public support that could subsidize the Catalyst project with up to \$30 million in public funds.

The land sale and the tax deal are still pending. So are approvals on the project.

City development official Andrea Rowe Richards says Ghazi’s formal proposal is expected by Sept. 15.

“We don’t expect what’s happening in Charlotte to adversely impact the project in Milwaukee,” Rowe Richards says. “The approach is different. The proposal is different.”

While she says the Catalyst project remains on track, Milwaukee alderman Bob Bauman says Ghazi has missed some deadlines. So far, the city is informally extending them.

“Frankly, nobody is beating the door down for the site,” says Bauman, who represents the district that includes the project. “Borrowing conditions are somewhat tight.”

Ghazi says he is optimistic the Milwaukee plan will be a success but declines to comment further on the deal.

“Once you take any situation and break it down to its building blocks, then you can address each one of those situations and prioritize them,” he says.

“If you can handle the individual pieces, then it’s not complex any more.”

Learning experiences

The future does not seem to be getting any simpler for Ghazi or his biggest development deals.

But he remains undaunted.

Ghazi says he is working to grow his company. According to his 10-year plan, he is a few years ahead of schedule.

He’s eyeing another city for a project like EpiCentre, but won’t divulge the location.

There are a lot of exciting commercial development deals to be had in today’s market, Ghazi says, and he wants to explore his options.

He says he is taking a cue from Warren Buffett — make money while the market is down by sniffing out opportunities others may miss.

“Everything in this world happens for a reason,” Ghazi says. “Even the things that haven’t worked out, my, what wonderful learning experiences they’ve been.”

Research director Amy Shapiro, staff writer Katy Finger, Milwaukee Business Journal reporter Rich Kirchen and St. Louis Business Journal reporter Lisa A. Brown contributed to this report.

GHAZI'S CHARLOTTE-REGION PORTFOLIO

- First built in 2000 and then expanded in 2004, the 93,000-square-foot Grande Promenade Village serves as a shopping destination for students, office workers and residents in University City.**
- In 2003, Ghazi transformed a vacant Hannaford supermarket property across from the Park Road Shopping Center into thriving retail hub called ParkTowne Village.**

•Ghazi also acquired one of the last prime commercial locations along Gastonia's busy retail thoroughfare for his Shops at Franklin Square.

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