

Eatery owner has to ante up

PINOLE: Pear Street Bistro proprietor or any prospective buyer needs to pay \$81,000 to stave off foreclosure

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By Tom Lochner

Today is the deadline for Pear Street Bistro owner Gary Wong — or a prospective buyer — to stave off foreclosure by ponying up \$81,000 to bring several hundred thousand dollars in Pinole redevelopment loans up to date.

But even if the money is paid, the bistro's future and the ownership of the building could remain in flux for some time.

Wong opened escrow July 23, a day ahead of the most recent of a series of deadlines to avoid foreclosure. He has not made payments since October 2005 on a package of loans with a balance of about \$463,000 in principal and unpaid interest as of today.

But as of Monday morning, to the city's knowledge, there was no signed contract to transfer ownership of the building from Wong or his company, Guistomangia Inc., to the prospective buyers, thought to be local residents Robert and Sally Frangieh, principals in Gilt Edge Creamery of San Francisco. Wong has said he and the prospective buyer want the restaurant to keep operating without any changes. City officials have not identified the prospective buyer, although Councilman Stephen Tilton said last month it is a business owner who lives in Pinole.

On Friday, in an effort to provide clarity on a matter that has frustrated as well as mesmerized residents and city officials for months, Interim City Manager Charles Long posted to the city's Web site a "letter of understanding" that he said he discussed with Wong earlier in the week, and that should resolve all outstanding issues in the Pear Street Bistro loan saga.

Once Wong sells the land and building, at 2395 San Pablo Ave., he must repay the total balance of the six-loan package, according to the letter. But escrow might not close until Dec. 21 for tax reasons on the prospective buyer's part, Long wrote. In the interim, Wong would have to resume paying the monthly loan tab of about \$3,700.

By Dec. 22, Wong would have to pay \$35,000 to defray a part of about \$85,000, including \$65,000 in legal fees, that the city has spent in pursuit of the delinquent loan payments. The \$35,000 is what the city realistically would expect to collect for such legal expenses in a foreclosure proceeding, Long said.

By Sept. 11, Wong must comply with an affordable housing covenant for the four apartments above the bistro; it calls for three apartments to be rented to moderate-

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income tenants and the fourth to a very low-income tenant. The city declared the building out of compliance last year.

Wong also would need to sign a lease with the city by Sept. 1 for a 200-square-foot outdoor seating area that the bistro has been using. The lease, at \$100 a year for two years and subject to renewals, would have to indemnify the city from any liability.

Last month, Wong said he had sold the building to a longtime Pinole resident and successful Bay Area business owner. But he could opt to hold onto it, by himself or in some kind of partnership, as long as the delinquent \$81,000 is paid timely.

"If he pays us tomorrow, we would have no basis in law to foreclose," Long said Monday.

Escrow previously was expected to close today. Closing is now expected in December to allow the prospective buyer to defer capital gains tax from the sale of another property by applying the gain to the purchase of another property in a so-called 1031 exchange, Long said.

Sally Frangieh said Monday that she could not comment because of confidentiality concerns.

A family member said Sunday that the Frangiehs are selling the San Francisco building that houses the creamery while holding onto the business, which sells gourmet butter, milk and cheeses, according to Internet sources.

City redevelopment rules mandate in most cases that loans be repaid upon sale of a property. Wong's loans carry interest rates ranging from zero percent to 6 percent.

It was unclear Monday whether the loan principals would be due if the Frangiehs or someone else were to buy Guistomangia Inc. rather than the Pear Street Bistro property directly. That would depend largely on whether title passes from one party to another, Long said.

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